

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA) 18-249-2, -3, -4, -8
)
vs.)
)
ABDUL IBRAHIM WEST)
JAMAAL BLANDING)
JAMEEL HICKSON)
HANS GADSON) Philadelphia, PA
) November 13, 2019
Defendant) 9:05 a.m.

TRIAL
BEFORE THE HONORABLE MICHAEL M. BAYLSON
UNITED STATES DISTRICT JUDGE

APPEARANCES:

For the Government: EVERETT R. WITHERELL, ESQUIRE
TIMOTHY MULLIGAN STENGEL, ESQUIRE
ASSISTANT UNITED STATES ATTORNEYS
UNITED STATES ATTORNEY'S OFFICE
615 Chestnut Street, Suite 1250
Philadelphia, PA 19106
(215)861-8327
everett.witherell@usdoj.gov
timothy.stengel@usdoj.gov

For the Defendant West, EDWARD C. MEEHAN, JR., ESQUIRE
LAW OFFICE OF EDWARD C. MEEHAN JR
211 North 13th Street, Suite 701
Philadelphia, PA 19107
(215)564-4173
edmeehan1420@aol.com

SHANNAN GAGLIARDI, RDR, CRR
OFFICIAL COURT REPORTER
U.S. DISTRICT COURT, EASTERN DISTRICT OF PA
601 Market Street, Room 2609
Philadelphia, PA 19106
(267)299-7254

APPEARANCES CONT'D:

For Defendant Blanding, EVAN T.L. HUGHES, ESQUIRE
THE HUGHES FIRM, LLC
1845 Walnut Street, Suite 932
Philadelphia, PA 19103
(215) 454-6680
evan.hughes@hughesfirm.pro

For Defendant Hickson, LUIS A. ORTIZ, ESQUIRE
121 South Broad Street, 18th Floor
Philadelphia, PA 19107
(215) 858-3787
luisaortiz@comcast.net

For Defendant Gadson, ROBERT E. GOLDMAN, ESQUIRE
ROBERT E. GOLDMAN, LLC
535 Hamilton Street, Suite 302
Allentown, PA 18101
(610) 841-3876
reg@bobgoldmanlaw.com

I N D E X

For the Government:

SPECIAL AGENT WILLIAM BECKER

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For the Defense:

WILLIAM H. EVERMAN

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EXHIBIT

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1 (Clerk opens court at 9:05 a.m.)

2 THE COURT: Ms. Lutz received a phone call from Juror
3 No. 10 that his car had broken down, and he's obviously not
4 able to be here any time in the reasonable future. So I'm
5 going to bring in Alternate No. 1. I just want to let you
6 know.

7 MR. WITHERELL: I'm assuming that's with no objection
8 from defense attorneys.

9 THE COURT: The other thing is I've ordered lunch for
10 the jury for two reasons. One, it will give us more
11 flexibility to accommodate Mr. Hughes' expert, and, secondly,
12 it will shorten the lunch break so we can keep -- yes, sir.

13 MR. GOLDMAN: Juror No. 10, is he the African
14 American gentleman?

15 THE COURT: I don't know who he is, but that's the
16 juror number who was indisposed. I think it's a male.

17 MR. GOLDMAN: I think it's white hair, white beard.

18 THE COURT: Mr. Witherell, do you have your revised
19 verdict sheet yet?

20 MR. WITHERELL: I do, Judge.

21 THE COURT: Please. Do you have an extra for my law
22 clerk by any chance?

23 MR. WITHERELL: I have several. Just to be clear,
24 Judge, it's just consistent with the proposed jury verdict form
25 consistent with our trial memorandum, and no one's proposed any

1 separate jury voir dieres. We believe it's less confusing.

2 MR. STENGEL: Your Honor, I'm happy to email the Word
3 document to your law clerk, if that would be helpful.

4 THE COURT: Yes.

5 We're waiting for the defendants. I told counsel
6 that Juror No. 10 was unable to come. We'll put Alternate No.
7 1 in, and I'll explain that to the jury when they come in.

8 Okay. Who is the next witness?

9 MR. WITHERELL: We still have Agent Becker on the
10 stand. He hasn't been crossed yet.

11 THE COURT: Okay. Come on up.

12 Bring the jury in, please.

13 (The jury enters the courtroom at 9:11
14 a.m.)

15 THE COURT: Good morning, ladies and gentlemen. Now
16 you can see why we have alternates. Because under the rules,
17 this goes back to medieval England, jurors in criminal cases in
18 the United States, at least in Federal Court, has always been
19 twelve jurors. It's not in the Constitution, but it's been the
20 practice that goes back centuries. And also that the jury has
21 to be unanimous.

22 If you're interested in English history, you can read
23 some exciting novels and stories about juries in medieval times
24 in England. You're the 2019 version of that history. So
25 another reason why we all thank you for your service.

1 But we have alternates in case a juror became
2 indisposed, and Juror No. 10 had a car problem today and was
3 unable, I believe, to get here in any reasonable time period.
4 So we have to proceed. We have Alternate No. 1, who is now
5 Juror No. 10.

6 Now, secondly, as you probably know, we're going to
7 have lunch brought in for you today, and we'll probably do the
8 same tomorrow. Some of you bring your own lunch. You'll have
9 a choice whether you have a court-supplied lunch or your own
10 lunch. You can bring your lunch back for dinner or keep it for
11 tomorrow, whatever you like.

12 There are two reasons for that. One is, as we're
13 getting to the final stages, I want to keep the trial moving,
14 and this will allow us to have a shorter lunch period.

15 Secondly is that we have another expert witness
16 coming who I'm told may only be available to come sometime in
17 the lunch hour. So we may have to interrupt another witness or
18 we may have to interrupt your lunch or delay your lunch. I
19 don't know exactly how it will work, but we're going to
20 accommodate that witness at some point during the day. So
21 thank you for your patience and understanding.

22 Okay. Agent Becker is still on the witness stand,
23 and we're ready for cross-examination; is that correct?

24 MR. STENGEL: Yeah. No more direct, Your Honor.

25 THE COURT: State your name for the record.

1 THE WITNESS: Special Agent William Becker.

2 THE COURT: You're still under oath.

3 Mr. Meehan.

4 MR. MEEHAN: Actually, I thought Mr. Hughes was going
5 to start, Judge.

6 MR. HUGHES: That's fine.

7 - - -

8 CROSS-EXAMINATION

9 - - -

10 BY MR. HUGHES:

11 Q. Good morning.

12 A. Good morning, Mr. Hughes.

13 Q. Sorry. Long day yesterday.

14 A. It was.

15 Q. So I believe your testimony yesterday started with
16 discussion of the beginnings of the surveillance of Mr. Hoover,
17 or at least that was somewhere in the beginning of your lengthy
18 testimony.

19 So just so we're all on the same page, Mr. Hoover was
20 developed as a person of interest, and then surveillance on him
21 began; is that fair to say?

22 A. Correct.

23 Q. And at some point authorization was obtained to track
24 him via GPS?

25 A. Yes.

1 Q. And that was done through his cellular telephone?

2 A. We didn't have GPS on his cellular telephone to
3 start. We just had a court order for cell site, which is not
4 as accurate as GPS monitoring.

5 Q. So yesterday there was mention of, going off my notes
6 here, that his cell phone was being tracked. It was my
7 recollection that your testimony was that it was GPS on the
8 cell phone. So you initially tracked him by his cellular
9 telephone through cell site data?

10 A. Correct. Then eventually we got a GPS tracker for
11 his truck.

12 Q. For his truck, not his phone?

13 A. We may have gotten one for his phone at some point,
14 but the first couple trips it was just the cell site.

15 Q. And what that data showed is that Mr. Hoover trucks,
16 drives a tractor trailer across the country back and forth,
17 correct?

18 A. Correct.

19 Q. And he's not going just from Los Angeles to
20 Philadelphia. He makes other stops in between, correct?

21 A. Correct.

22 Q. Now, visual physical surveillance -- and when I say
23 visual physical surveillance, what I mean is agents actually
24 with eyes on him -- was not maintained while he's driving all
25 around the country, correct?

1 A. That's correct.

2 Q. You had physical visual surveillance in Los Angeles,
3 in Philadelphia, but nowhere in between?

4 A. Correct.

5 Q. Now, there was some discussion as well -- you know
6 what, I believe it is a Government exhibit.

7 MR. HUGHES: Your Honor, may I approach and grab one
8 of the Government's exhibits?

9 THE COURT: Yes.

10 MR. HUGHES: Thank you.

11 MR. WITHERELL: Mr. Hughes, do you need help?

12 MR. HUGHES: Perhaps.

13 BY MR. HUGHES:

14 Q. You probably can't see that so well.

15 A. I can see that. That's fine. Thank you.

16 Q. You're welcome. So this exhibit, I'm sorry that it's
17 crooked, was referred to extensively yesterday, and under my
18 client's name -- and for the record, this is Exhibit 3003, a
19 Government exhibit.

20 We see six phones that were taken from Mr. Blanding,
21 that were seized from Mr. Blanding at various times, correct?

22 A. Correct.

23 Q. And for the jury's understanding, you didn't get six
24 cell phones off of him at one time. There were, I believe,
25 three separate occasions in which phones were seized from

1 Mr. Blanding throughout the course of the investigation?

2 A. I think it was actually four.

3 Q. Four. And the multiple times -- I'm going to use
4 this laser thing. We see this phone number ending in 4737,
5 which is indicated as Phone 2, and then down here the same
6 number, Phone 22, ending in 4737.

7 That is accurate, right? We have the same phone
8 number being used on different phones that were taken?

9 A. Correct.

10 Q. So what happened here, Special Agent, it's fair to
11 say, is that, you know, agents would, you know, with court
12 authorization, seize Mr. Blanding's cell phones, and it would
13 certainly appear that, you know, he had to go get new ones and
14 reactivate a telephone; is that fair to say?

15 A. Correct.

16 Q. Now, throughout the course of the investigation, you
17 looked at a number of Instagram posts with respect to
18 Mr. Blanding, with respect to OBH, and we went through a lot of
19 those yesterday, correct?

20 A. Correct.

21 Q. I'll take this down just not to distract. Sorry.

22 I'd like to present, if possible -- okay. We'll
23 circle back to that when we have the video screen capability.

24 Now, at one point yesterday there was a mention of OG
25 Kush. Do you recall that?

1 A. No.

2 Q. Okay. Well, we'll come back to that.

3 At one point -- sorry. One second.

4 A. No problem.

5 MR. HUGHES: If we could have Exhibit 922, please.

6 This is, for the record, Government Exhibit 922. It's already
7 in evidence.

8 BY MR. HUGHES:

9 Q. Now, on this particular post, we have some text, and
10 it says, and we read this yesterday: We ain't trust the
11 process. We trust the Pyrex.

12 And you talked about Pyrex. Did you perform any
13 Google searches or research into this line of text?

14 A. No. I know what "trust the process" refers to.

15 Q. Trust the process can be, you know, a Philadelphia
16 76ers reference?

17 A. Absolutely.

18 Q. And in this case are you aware that these are rap
19 music lyrics?

20 A. No, I am not.

21 Q. And are you aware that Pyrex and references to Pyrex
22 is very commonly thrown around in rap lyrics?

23 A. I've never heard it.

24 Q. No?

25 A. No.

1 Q. Throughout the course of your investigation, did FBI
2 consult with any hip-hop music experts to help decipher what
3 the meaning of some of these posts might mean?

4 A. We did not.

5 Q. You would agree with me that that could have been
6 helpful and could have guided your investigation, no?

7 A. I do not agree with you on that.

8 Q. Fair enough.

9 MR. HUGHES: May we have Exhibit USA-929?

10 BY MR. HUGHES:

11 Q. Now, this post was referred to yesterday, and it's
12 Mr. Blanding, right?

13 A. Yes.

14 Q. And you would agree with me that nowhere in this --
15 well, nowhere in this photograph do we see any drugs, any guns,
16 any illicit activity, correct?

17 A. That's correct.

18 Q. Just Mr. Blanding in a camo jacket, right?

19 A. Yes, standing in the Mansion.

20 Q. Fair enough.

21 MR. HUGHES: Okay. May we please have Exhibit 4001?

22 BY MR. HUGHES:

23 Q. Now, in this exhibit -- for the record, it's
24 Exhibit 4001, but within this exhibit, it's Number 22. The
25 date is July 12 and this has -- it lists names: Paul, Gizzy,

1 Mont. Then it says: Soft, hard, Eric, glass.

2 You would agree with me that there are names here,
3 correct? Had the FBI considered that these are names of
4 individuals, nicknames of hard and soft?

5 A. No, I did not consider that.

6 MR. HUGHES: May we have Exhibit 4049, please?

7 BY MR. HUGHES:

8 Q. You do recall that -- and before we get to this
9 exhibit, when Dontez Stewart testified, he referred to
10 Mr. Gadson as soft.

11 Do you recall that there was some cross-examination
12 by Mr. Goldman about him referring to Mr. Gadson as soft?

13 A. That wasn't exactly what he referred to him as. It
14 was a complete statement.

15 Q. Soft as duck shit?

16 A. Yes. I didn't want to say it. Thank you.

17 Q. It kind of stuck in there.

18 So going to this Exhibit 4049, now, yesterday, and
19 I'm sorry for not using the microphone, yesterday we looked at
20 part of the exhibit, the bottom half of this exhibit. This is
21 where we were focused yesterday, but if we could do the same,
22 zoom in to the top half of the exhibit.

23 MR. HUGHES: I'm sorry. Court's indulgence. We went
24 through a lot of exhibits yesterday.

25 THE WITNESS: We did.

1 MR. HUGHES: Oh, yes. Right here. We can zoom in on
2 this area.

3 BY MR. HUGHES:

4 Q. Now, do you see where this says "the OG load"?

5 A. Yes.

6 Q. Now, you are aware that OG is a very commonly used
7 term attached to different types of marijuana, are you not?

8 A. I am aware of that.

9 Q. Like OG Kush, whatever the strain is, like platinum
10 something OG, and are you aware that it means organic often
11 when it's used in reference to marijuana?

12 A. I wasn't aware that's what it stood for. It makes
13 sense.

14 Q. Thank you.

15 MR. HUGHES: Could we have 923, please?

16 BY MR. HUGHES:

17 Q. Now, this exhibit was referred to yesterday. I don't
18 recall exactly what it was referenced regarding, but in your
19 investigation, had you realized that this was the site of the
20 filming of the No Smoke video and that they're outside of the
21 library there during the shooting of a music video?

22 A. I did not know that.

23 Q. You did watch and we had displayed to the jury
24 many -- not many, but a number of music videos, correct?

25 A. Correct.

1 Q. And you certainly did, throughout the course of your
2 investigation, you and brother and sister agents, you know,
3 went through YouTube and Instagram in the course of your
4 investigation, but you do not recognize this particular
5 location as being in the video?

6 A. I do not.

7 MR. HUGHES: May we have Exhibit 916?

8 BY MR. HUGHES:

9 Q. This is a post that was referred to yesterday. If we
10 could zoom in on the text, actually. This is a post from
11 Jamaal Blanding's Instagram account, and it says, "I'll make it
12 snow in LA."

13 Are you aware that that phrase is an extremely common
14 phrase used in countless rap songs?

15 A. No, I am not.

16 Q. Are you familiar with the artist by the name of
17 Notorious B.I.G.?

18 A. I am.

19 Q. Are you aware that's where that phrase comes from?

20 A. No.

21 MR. HUGHES: May we have Exhibit 4064?

22 BY MR. HUGHES:

23 Q. Now, this is a conversation, according to this piece
24 of evidence here, it says it's a group chat, and it's Mr. West,
25 Mr. Blanding, Mr. Hoover, and Mr. Boyer communicating about

1 Cash App, right?

2 A. I wouldn't say it's a group chat. I think it's just
3 a series of one-on-one conversations put together. At no point
4 is one person contacting more than one person. It's just
5 separate one-on-one conversations.

6 Q. That were pieced together?

7 A. Yes.

8 Q. Okay. For some reason I thought it was, like, when
9 you add multiple people together and you kind of save time. So
10 this is a series of conversations then regarding the Cash App.

11 Now, just so the jury understands, Cash App is an app
12 that you can put in a smartphone, correct?

13 A. Correct.

14 Q. And it allows people to transfer funds from one
15 person to another?

16 A. Correct.

17 Q. Instantaneously?

18 A. Correct.

19 Q. Nothing illegal about that, right?

20 A. No.

21 Q. And you would agree with me that nothing on this
22 particular slide -- actually, I just want to be clear that the
23 Government's not alleging that there's any illicit coded
24 conversation in here in this exhibit, correct?

25 A. No. I believe it's very straightforward. While

1 Defendant Blanding is in Los Angeles, they're trying to
2 coordinate sending him money.

3 Q. Through the Cash App?

4 A. Correct.

5 MR. HUGHES: And now may we go to slide 4065?

6 BY MR. HUGHES:

7 Q. This was displayed yesterday. It's a conversation
8 between Mr. Hickson, Mr. Blanding: I'm down here.

9 Response: Yo, bull, he text no on the last. All
10 right then.

11 That was displayed yesterday.

12 A. The text was: He text no go on the last.

13 Q. No go on the last.

14 You don't presume to understand what that means, do
15 you?

16 A. I have an opinion on what that means.

17 Q. Is it based in evidence and fact?

18 A. Yes.

19 Q. What do you think that that means?

20 A. Based on the totality of my investigation, I believe
21 that Defendant Hickson was obtaining a large quantity of
22 narcotics when in Los Angeles. I believe the context of this
23 text conversation means that for whatever reason Mr. Hickson's
24 letting Mr. Blanding know that attempting to obtain narcotics
25 last night was a no go.

1 Q. I think that's an important point, is you're
2 interpreting this text with the lens of a very lengthy
3 investigation, correct?

4 A. Correct.

5 Q. And it's fair to say that one of these gentlemen can
6 say I'm hungry, I want a cheeseburger, and you'll probably say
7 that that was a code for buying an ounce of crack, right?

8 A. I wouldn't say that.

9 Q. Yet in this text here, no go on the last, isn't about
10 a restaurant reservation or going to a concert or going to a
11 music studio. It's got to be drug-related, right?

12 A. Like I said, based on the totality of the
13 investigation, that's what I believe.

14 Q. Understood.

15 MR. HUGHES: Can we go to 4067, please? I'm sorry,
16 Your Honor. I have to walk up to this. Oh, yes. Can we zoom
17 in on this part?

18 BY MR. HUGHES:

19 Q. This exhibit was presented yesterday, the bottom
20 two-thirds, but not this top part. In the top part here at the
21 bottom, this bottom line here, part of the message, and this is
22 involving Mr. Blanding and Mr. Hickson, it says: You want this
23 bud you left in the car.

24 Right?

25 A. Correct.

1 Q. What's bud?

2 A. I personally believe the bud refers to marijuana.
3 For the sake of your argument, it could refer to a Budweiser
4 beer.

5 Q. I like that. Bud is commonly referred to -- is a
6 common term with marijuana, though, right?

7 A. Yes.

8 MR. HUGHES: May we have -- this is actually a video.
9 I'm sorry. One second. We're done with that exhibit.

10 BY MR. HUGHES:

11 Q. Now, yesterday there was some mention -- actually,
12 strike that.

13 There's been a lot of mention of Mr. Blanding's
14 travel. Specifically, it's been his trips to Los Angeles.

15 You are aware that Mr. Blanding had, during this time
16 period of this investigation, traveled to other locations?

17 A. Yes.

18 Q. He was in Miami?

19 A. Yes, I do recall that one.

20 Q. I believe he was in Puerto Rico or something like
21 that?

22 A. I remember him going to a couple places that were
23 tropical and being jealous.

24 Q. Me too. But, you know, we have a more complete
25 travel record that is not just him going back and forth to Los

1 Angeles, correct?

2 A. Correct.

3 MR. HUGHES: Now, may we have Exhibit 111A? It's a
4 video. I'm sorry. It's a picture perhaps, yes.

5 BY MR. HUGHES:

6 Q. So this picture is of Richard Chase Hoover, correct?

7 A. Correct.

8 Q. This is in Los Angeles, right?

9 A. Correct.

10 Q. And there was direct examination regarding this bag
11 here that he's carrying?

12 A. Yes.

13 Q. Now, law enforcement never made a determination as to
14 what is in that bag, correct? They never opened the bag,
15 right?

16 A. Correct.

17 Q. Dogs never sniffed the bag, correct?

18 A. Correct.

19 Q. Law enforcement was in California, though, because
20 obviously the photograph is taken, right?

21 A. Yes, we were.

22 Q. You were there. Who else?

23 A. My partner, Special Agent Simpson.

24 Q. So you guys are there. You didn't make the arrest of
25 Mr. Hoover in California?

1 A. No.

2 Q. But you could have, right?

3 A. Yes.

4 Q. And you will agree with me that this bag is never
5 seen in Philadelphia, correct?

6 A. Yeah. I don't recall seeing that bag.

7 Q. And nowhere in any of this discovery, in any of the
8 evidence -- sorry. Strike that.

9 So that bag is seen in Los Angeles but not seen in
10 Philadelphia, and that's on May 11.

11 Do you recall when Mr. Hoover, on this particular
12 trip, got to Philadelphia?

13 A. Yes, it was the afternoon of May 16.

14 Q. Sixteenth?

15 A. Correct.

16 Q. Did FBI track how many stops he made along the way?

17 A. Yes. We maintained electronic surveillance on
18 Mr. Hoover the entire trip east back from California.

19 Q. How many times did he stop?

20 A. I don't recall.

21 Q. At one point I believe I saw in the discovery that
22 Mr. Hoover had witnessed an accident and actually called 9-1-1
23 to assist an accident; is that correct?

24 A. I do recall that, yes.

25 Q. What state was that in?

1 A. I don't recall the exact state. I want to say it was
2 somewhere in the Midwest, but I can't be sure.

3 Q. But no investigation was done to see if he was
4 dropping off or picking up anything along the way here through
5 the Midwest?

6 A. I'm not sure of the question.

7 Q. You tracked his movements, but you weren't tracking
8 what he was doing along the way there, correct?

9 A. I wouldn't necessarily say that.

10 Q. Well, you did tell us that you did not have visual
11 surveillance while he was driving across the country, right?

12 A. Correct.

13 Q. No cameras planted on the truck, right?

14 A. No.

15 Q. And no agents following him?

16 A. No.

17 Q. Didn't have any airplanes, did you?

18 A. We do have airplanes, but we didn't use any.

19 Q. Not in this case, correct?

20 A. Right.

21 MR. HUGHES: May we have 1111D?

22 THE WITNESS: It's nice that all your videos work.

23 MR. HUGHES: Got lucky today. If you could
24 fast-forward to when you see individuals.

25 THE WITNESS: I think it's about three minutes in, if

1 this is the video I'm thinking of.

2 BY MR. HUGHES:

3 Q. Thank you. I'm just going to ask the ladies and
4 gentlemen of the jury and you, Special Agent, to focus on
5 what's being carried, the bags.

6 MR. HUGHES: Can we stop there? Thank you.

7 BY MR. HUGHES:

8 Q. Now, this person has been identified as Mr. Hoover,
9 correct?

10 A. Yes, standing behind Mr. Blanding.

11 Q. You believe Mr. Blanding, but you're not going to
12 tell us that you can see a face there, can you?

13 A. I saw Mr. Blanding out front of the apartment complex
14 wearing the exact same clothing. I seen him wear that hat
15 before.

16 Q. Fair enough. You hadn't mentioned that yesterday on
17 direct. Do you remember that since yesterday?

18 MR. STENGEL: Objection, Your Honor. He did testify
19 to that.

20 BY MR. HUGHES:

21 Q. Now, Mr. Hoover has what appears to be a roller bag
22 of sorts. I say that because he's dragging it.

23 A. Yes.

24 Q. And he has another bag on his shoulder. I'm taking
25 your word that that's Mr. Hoover. I can't see who that is, but

1 he's got two bags here.

2 This bag, this shoulder bag, is not that bag in Los
3 Angeles, correct?

4 A. No. That's correct. The shoulder bag was -- I
5 wouldn't say it was leather, but it was shiny in nature,
6 clearly not the bag from the previous picture we discussed.

7 Q. So not the bag from LA?

8 A. No. It's very possible he switched bags in the
9 truck. There was a text message about switching bags with
10 Mr. Hickson. Who is to say what was in that bag in Los Angeles
11 or where that bag wound up.

12 Q. Who is to say where it wound up?

13 A. Correct.

14 MR. HUGHES: Thank you. No further questions.

15 THE COURT: Other counsel?

16 - - -

17 CROSS-EXAMINATION

18 - - -

19 BY MR. ORTIZ:

20 Q. Good morning.

21 A. Good morning, Mr. Ortiz.

22 Q. It was a long day yesterday, and I'm not going to go
23 through that gargantuan amount of testimony. But I just want
24 to sort of segue off my co-counsel and I also want to go
25 through some of the pieces of evidence. I know you're

1 interpreting them, but I just want to talk factually about some
2 of the things that you testified to yesterday, okay?

3 A. Sure.

4 Q. First off, you only ordered flight records, I
5 believe, going back to March of 2017, correct?

6 A. That sounds correct.

7 Q. I think they went up to maybe later into '18. Maybe
8 May, June, July, something like that?

9 A. I want to say it was October.

10 Q. It might have been up to October. That's when the
11 arrests were made, correct?

12 A. Yes.

13 Q. You don't have the records for Mr. Hickson going
14 back, say, a year back from that, correct?

15 A. We might. I don't know if we do or don't. I don't
16 think so.

17 Q. If you have them, they weren't turned over to us,
18 correct?

19 A. Right.

20 Q. What those records do show is that Mr. Hickson does
21 travel to Los Angeles even without Mr. Blanding going with him.
22 He's traveled -- I think in April he went to Los Angeles,
23 correct? There's other flights he makes to Los Angeles that
24 he's made in this case.

25 A. In April of 2018, he was with Mr. Blanding.

1 Q. I'm talking about in '17.

2 A. I'm sorry, yes. Oh, absolutely.

3 Q. I don't think it's a secret, correct me if I'm wrong
4 because we've had other hearings, I can't go into detail
5 because it's not relevant, but we do know that Mr. Blanding has
6 lived in Los Angeles?

7 A. I had no idea that Mr. Blanding lived in Los Angeles.

8 Q. You did not know that?

9 A. No.

10 Q. But you do have this record of him traveling even
11 within that window to Los Angeles?

12 A. I'm sorry. Are you asking about Mr. Hickson?

13 Q. Mr. Hickson during that period without Mr. Blanding.

14 A. Let me clarify that. I have no knowledge of
15 Mr. Blanding ever living in Los Angeles.

16 Q. I mean Mr. Hickson.

17 A. Yes, I am aware that Mr. Hickson at some point has a
18 residency in California.

19 Q. Exactly. And he's traveled without Mr. Blanding to
20 California?

21 A. Yes.

22 Q. So we also have, when you retrieved phone records in
23 Mr. Hickson's apartment when you arrested him in October, we
24 see that one of the phones is actually registered to Sherman
25 Oaks in California, correct? That's the address given?

1 A. Yes.

2 Q. And I want to go back a little bit to be clear to the
3 jury about this. The first trip that we're aware of for
4 Mr. Hoover is, I believe, in November of 2017, correct?

5 A. Correct.

6 Q. In November of 2017, Mr. Hoover has already signed a
7 lease or is living in an apartment that's had a lease that we
8 heard the lady testify from March 2017 or April when they made
9 a deposit up until next year when they get a letter evicting
10 him, correct?

11 A. Mr. Hoover did not sign any lease.

12 Q. No. I said he's living in this Race Street
13 apartment.

14 A. I don't believe he was living in Race Street in
15 November.

16 Q. You don't believe he was living in Race Street in
17 November?

18 A. I believe it was early 2018 he moved into Race
19 Street.

20 Q. Let's backtrack then. In November, there is this
21 first trip, that you're aware of, of Mr. Hoover?

22 A. Correct.

23 Q. You have testified that a significant amount of bags,
24 we saw videos, are taken from Mr. Hoover's truck at that time.
25 He removed them from the truck, correct?

1 A. Correct.

2 Q. And so we know that, and you'd agree with me that we
3 saw a video that was, you know, interpreted through, I guess,
4 the front desk person or a gentleman who was there?

5 A. Yes. He was a security guard.

6 Q. That's because you were able to get that video and
7 view it, correct?

8 A. Correct.

9 Q. And then we do not see this suitcase or any large
10 bags go into Mr. Hickson's apartment, correct?

11 A. Just the backpack.

12 Q. Just that backpack, just so we're clear?

13 A. Yes.

14 Q. After that, Mr. Hoover, when he returns on the next
15 trip, where does he go to? Which location does he return to?

16 A. He goes to the Edgewater Apartments.

17 Q. He goes to the Edgewater. So that's a second trip?

18 A. Correct.

19 Q. And on the third trip, where does he go?

20 A. Edgewater Apartments.

21 Q. On the fourth trip, where does he go?

22 A. Edgewater Apartments.

23 Q. On the fifth trip, where does he go?

24 A. The Edgewater Apartments.

25 Q. Any of those trips we saw people going in with him on

1 some of them, correct?

2 A. Correct.

3 Q. At any point did Mr. Hickson go in with him?

4 A. Not on physical surveillance, no.

5 Q. You didn't see him -- let's be clear. You did not
6 see Mr. Hickson arrive at the location in the middle of the
7 night and go in with that large -- remember the thing he was
8 carrying? It was so much stuff in those bags, he had to use a
9 roller, right?

10 A. Yes.

11 Q. And Mr. Hickson is not there, correct?

12 A. No, I did not see Mr. Hickson.

13 Q. So that's what you mean, you didn't see it on your
14 surveillance, correct?

15 A. Correct.

16 Q. All right. Now, you do get a warrant to arrest
17 Mr. Hickson, I believe, in and around October, correct?

18 A. Yes.

19 Q. And, of course, you don't tell Mr. Hickson that I'm
20 coming to arrest you, right?

21 A. That's not our usual practice, to alert any
22 individual who has an arrest warrant that we're coming.

23 Q. Absolutely not. Things could disappear, correct?

24 A. Yes.

25 Q. So I want to show you some photos that we did not see

1 because you arrested Mr. Hoover, and I'm just going to ask you
2 to look at, it doesn't matter which photo you put up, just a
3 few photos. Tell me if you recognize them. It's got to load.
4 This is one of the files where the whole file was downloaded as
5 an exhibit.

6 A. Sure.

7 Q. I want you to look at that.

8 MR. ORTIZ: Permission to publish to the jury?

9 THE COURT: Yes.

10 BY MR. ORTIZ:

11 Q. Do you recognize that?

12 A. Yes.

13 Q. So what do we see here? Is this from Mr. Hickson's
14 apartment?

15 A. Yes. That first picture was the front door to his
16 apartment.

17 Q. Yes.

18 A. The second picture, I believe, is somewhere in the
19 kitchen.

20 Q. Went through enough photos yesterday. I'm going to
21 just select some of them out so we don't have to go through all
22 72, but we'll go through whatever this is.

23 So this is from his apartment, correct?

24 A. Correct.

25 Q. And I notice that there is a plastic bag roll there,

1 correct? There's a roll of bags?

2 A. Yes.

3 Q. And there was also a heat-sealer recovered, correct?

4 A. Correct.

5 Q. And that's commonly used to package drugs, correct?

6 A. Yes.

7 Q. All right. But you did not find any small square
8 packages in the apartment, correct?

9 A. I'm not sure what you're referring to.

10 Q. The little tiny plastic bags, zip-lock bags, the
11 little tiny snap bags, like what's found at Sydenham?

12 A. Like the heroin baggies?

13 Q. Yes.

14 A. No, we did not.

15 Q. That was the only thing that I've seen in the photos
16 that resembles packaging, correct?

17 A. Yes.

18 Q. And I saw the apartment looked like it had been
19 searched up and down?

20 A. We're very thorough in our searches.

21 Q. Right. And you did not find anything else other than
22 those bags and the heat-sealer in terms of packaging?

23 A. Right.

24 Q. Do you recognize what that is?

25 A. Yes. That is the large trash bag that's full of

1 marijuana from Mr. Hickson's apartment.

2 MR. ORTIZ: Show the next photo.

3 BY MR. ORTIZ:

4 Q. That is the large amount of marijuana that you found
5 in Mr. Hickson's apartment, correct?

6 A. Yes.

7 MR. ORTIZ: Show the next photo.

8 BY MR. ORTIZ:

9 Q. All right. Do you recognize what that is?

10 A. Yes.

11 Q. What is that?

12 A. It's a large pile of marijuana vape pens. I believe,
13 it feels like a year ago, Officer Vargas testified to what a
14 marijuana vape pen was.

15 Q. It is funny. I was just going to say that. So we
16 heard about it in this case, it seems like a year ago, but
17 Officer Vargas, I believe, found a vape pen on Mr. Blanding?

18 A. Correct.

19 Q. So that's commonly used to smoke marijuana, correct?

20 A. Correct.

21 Q. And that also was found, in addition to the other
22 items I showed you, in Mr. Hickson's apartment, correct?

23 A. Correct.

24 Q. And then I believe you also found a scale, correct?

25 A. Yes.

1 Q. And there was a bowl, I believe, in the picture that
2 you set on top of the scale, correct?

3 A. That's part of the scale.

4 Q. It's actually part of the scale?

5 A. Correct.

6 Q. Now, we've already seen these. Because my co-counsel
7 touched on them, I'm not going to belabor it, but I want to
8 show you specifically.

9 So this is the text -- I think I only saw two texts
10 in this entire exhibit with reference to Mr. Hickson, but you
11 have referenced a text between Mr. Hickson, Mr. Hickson texting
12 Mr. Blanding, correct?

13 A. Correct.

14 Q. And he says: I need one of them ice joints.

15 Correct?

16 A. Mr. Hickson says that, correct.

17 Q. He doesn't say J-A-W-N-S. He says joints, correct?

18 A. Yes.

19 Q. You're well aware of the Philadelphia slang jawn,
20 right?

21 A. Oh, yes.

22 Q. And then the question I guess is: A whole one?

23 Correct?

24 A. Yes.

25 Q. And then it's: Yes, sir.

1 A. Yes.

2 Q. No rush.

3 A. Yes.

4 Q. And then it's just: Okay.

5 That's the sum and substance of that text, correct?

6 A. Correct.

7 Q. Now, my co-counsel went through something that wasn't
8 read yesterday, which was the same thing we spoke about, which
9 was the bud, right? So there are not that many Hickson texts,
10 but one of the ones references the bud left behind, correct?

11 A. Correct.

12 Q. We just saw that. I'm not going to put the exhibit
13 up again. The jury's seen it and they'll see it again, I'm
14 sure, before we finish this.

15 And bud is commonly referred to, you know, a
16 reference often to weed, correct?

17 A. Correct.

18 Q. And, again, what you found in Mr. Hickson's house was
19 a big bag of weed, correct?

20 A. And the scale with methamphetamine residue on it.

21 Q. With residue, yes, but you found no actual -- you
22 didn't find a brick of methamphetamine, correct?

23 A. No.

24 Q. You didn't find even an ounce of methamphetamine,
25 correct?

1 A. No. Just residue on a scale.

2 Q. Or cocaine or anything or heroin?

3 A. Cocaine residue on the scale as well.

4 Q. But no significant amounts other than residue? You
5 found residue is what you found?

6 A. Correct.

7 Q. Now, I saw the suitcase in Mr. Hoover's -- when you
8 arrested Mr. Hoover, correct? Do you recall there's a picture
9 of the suitcases?

10 A. Yes.

11 Q. And you showed us this picture, in particular, last
12 time, correct?

13 A. Yes.

14 Q. Now, I notice that there's no labeling on any of the
15 packages, correct?

16 A. On the heat-sealed packages, no.

17 Q. So we have some meth in the corner, correct?

18 A. Yes.

19 Q. And then what's up top is kilos of cocaine, correct?

20 A. Correct.

21 Q. They're in this dark PVC packaging, correct?

22 A. They're inside of heat-sealed bags and then inside of
23 the PVC packaging.

24 Q. I think you would have taken it out of the suitcase,
25 correct?

1 A. I'm not sure --

2 Q. Were the items inside the suitcase when you arrived
3 or are they already unpacked like that for posterity?

4 A. No. They were in the suitcase. The 10 kilos of
5 cocaine were at the bottom, and the two bags of methamphetamine
6 were on top.

7 Q. So they were all in the same bag?

8 A. All in the same suitcase, yes.

9 Q. Now, you recall the officer speaking about the search
10 of Sydenham, correct?

11 A. Yes.

12 Q. And there was a large trash bag of marijuana
13 recovered there, correct?

14 A. There was numerous drugs recovered from that.

15 Q. I asked if there was a large bag of marijuana
16 recovered there.

17 A. Yes.

18 Q. That would be the answer.

19 So we saw a video where we saw -- correct me if I'm
20 wrong or I'm missing any additional video. I saw a video on
21 one occasion we see Mr. Hickson ride up on a motorcycle,
22 correct?

23 A. Yes.

24 Q. To Sydenham?

25 A. Yes.

1 Q. In the daylight?

2 A. Yes.

3 Q. You say he goes up on the porch or may have gone in
4 the house. I'm not going to argue that with you. We already
5 made that point.

6 A. Thank you.

7 Q. But he's there -- I mean, if you look at the video,
8 he's not there more than ten minutes. I mean, how long do you
9 say --

10 A. I would say ten minutes is a fair estimate, yes.

11 Q. You didn't see him before there hanging out, correct?

12 A. The night before.

13 Q. Right. The night before.

14 A. Correct.

15 Q. But earlier on that day you didn't see him hanging
16 out at the location?

17 A. No.

18 Q. And I noticed something else. The drugs at Sydenham
19 were recovered, what, on the second floor, Mr. Gadson's room, I
20 think the center bedroom?

21 MR. GOLDMAN: Mr. Gadson's?

22 BY MR. ORTIZ:

23 Q. Not Mr. Gadson. I mean the center bedroom and I
24 think there's another bedroom on the second floor where I
25 think -- other than the marijuana, which it looks like some

1 kind of stairwell, I don't know what that is, but the drugs,
2 the actual heroin, the meth, weren't they recovered on the
3 second floor?

4 A. Yes.

5 Q. So the hard drugs on the second floor, the heroin,
6 the meth?

7 A. There were drugs recovered on the second floor.

8 Q. Okay.

9 MR. STENGEL: Objection, Your Honor.

10 THE COURT: Overruled.

11 BY MR. ORTIZ:

12 Q. Now, I don't know why I want to point this out, and
13 it's not ending this with a bang, but I noticed something
14 yesterday and everybody at the table noticed it.

15 MR. ORTIZ: Can we look at that 917 thing? I don't
16 know what was going on here.

17 BY MR. ORTIZ:

18 Q. So we were making a lot of this September 29 thing
19 yesterday, but the date, what are we missing here? The date
20 appears to me to be 11/29.

21 A. I believe the label on that conversation is
22 incorrect. It should be November 29, 2017.

23 Q. So it's just you mislabeled?

24 A. Yeah. I think I also mislabeled something else,
25 March 37 or something.

1 Q. I'm not accusing you. That's just something that was
2 a mistake that was made?

3 A. Thank you for pointing that out.

4 Q. I'm just going to go through one photo we didn't look
5 at.

6 A. I see it, yes.

7 MR. ORTIZ: Can you publish that to the jury? We've
8 seen it numerous times. I just want to point out the caption
9 again.

10 BY MR. ORTIZ:

11 Q. So we've seen some photos with my client. I would
12 suggest they all have OBH Records, but the caption in this case
13 says: Do you have what it takes to be a part of OBH Records?
14 Me and Melliano are the CEOs of OBH Records. They again
15 reference Poerilla who does the management, correct?

16 A. Yes.

17 Q. You've pointed out he was in one of the pictures that
18 we've seen earlier?

19 A. Yes.

20 Q. And last but not least, you saw the exhibit
21 referencing Boots, correct, Mill's Boots?

22 A. I'm not sure what you're talking about. Yes. It's
23 right here. I see it.

24 Q. We didn't talk about it yesterday, but you referenced
25 this exhibit and it references Mill's Boots, correct?

1 A. Yes, Mill's boots.

2 Q. Are you aware that boots is also another common term
3 for marijuana?

4 A. No, I'm not.

5 Q. It references Timberland boots.

6 A. How is that a reference to marijuana?

7 Q. It's a tree.

8 A. Excuse me?

9 Q. Tree.

10 A. I still don't follow. I'm sorry.

11 Q. You're just not aware that boots is a term used to
12 refer to marijuana?

13 A. How are you aware of that?

14 Q. I've spoken to experts. It refers to trees.

15 A. I don't know.

16 Q. Timberland has a special logo, which is a tree. In
17 hip-hop culture it's an important boot and it references a
18 tree. That's what I'm getting at. But you're not aware of
19 that one way or another?

20 A. No, I'm not.

21 Q. You do recognize that as one of the texts you
22 retrieved?

23 A. Yes.

24 Q. I have no further questions.

25 A. Thank you.

1 MR. GOLDMAN: I will not be long.

2 - - -

3 CROSS-EXAMINATION

4 - - -

5 BY MR. GOLDMAN:

6 Q. Can I just clear up something? I think Mr. Ortiz,
7 you know, innocently misstated something.

8 There's no evidence that Gadson's bedroom was on the
9 second floor of the Sydenham location, correct?

10 A. That is correct. We have no evidence that Mr. Gadson
11 lived at the Sydenham residence, the Mansion.

12 Q. Okay. Thank you very much.

13 A. You're welcome.

14 Q. Now, Mr. Gadson was never out in California. He was
15 never involved with those trips, correct?

16 A. We arrested Mr. Gadson in California.

17 Q. We're going to get to that today. After he left
18 Philadelphia, he was arrested there. I'm talking about the
19 four shipments. There's nothing presented by you that has him
20 out there, correct?

21 A. On any of the six trips, no, we have no evidence that
22 Mr. Gadson was in California.

23 Q. I'm looking at them, you know, just on the evidence
24 you're presenting against others, and you have Mr. Blanding --
25 I'm sorry, Mr. Hoover coming back with duffel bags.

1 When you're sitting on these lots, it's not uncommon,
2 first of all, for truck drivers who are on the road to be
3 carrying duffel bags into their car, truck, and taking duffel
4 bags out, correct?

5 A. That's not uncommon at all, no.

6 Q. And I want to ask you some questions about marijuana,
7 but before we get to that, the Sydenham search, and this is for
8 later purposes, the Sydenham search was on or about
9 September 11, 2017; is that correct?

10 A. Correct.

11 Q. Now, the first text that you played yesterday that
12 you believe to be drug language by Mr. Gadson in texts was over
13 two months later, November 27, 2017; is that correct?

14 A. That's correct.

15 Q. So that Sydenham search, whatever took place and was
16 found there, that was in September of 2017, and the first text
17 that was played was 11/27/17.

18 There were how many trips to California?

19 A. Six.

20 Q. And you made a search of a residence or a duffel bag
21 on how many occasions?

22 A. One.

23 Q. One. And that's the last one, correct?

24 A. Correct.

25 Q. So we don't know what Mr. Hoover was bringing back on

1 those other occasions, correct? We have no physical of that?

2 A. No physical evidence, correct.

3 Q. Okay. Mr. Ortiz brought out that there was large
4 quantity of marijuana at Mr. Hickson's residence when it was
5 searched. He brought out that there was a large quantity of
6 marijuana at Sydenham when it was searched.

7 You've been sharp on this case. Do you know what
8 Exhibit 401 is, or can I show it to you? I want to figure out
9 what search this is.

10 A. You can show it to me, yes.

11 MR. GOLDMAN: May I approach, Your Honor?

12 THE COURT: Yes.

13 THE WITNESS: Yes, I know.

14 BY MR. GOLDMAN:

15 Q. What search this is?

16 A. This is the search of the Mansion, September 11,
17 2017.

18 MR. GOLDMAN: Could you put the Elmo on?

19 BY MR. GOLDMAN:

20 Q. I just want to find out what certain items are, okay?

21 A. Sure.

22 Q. In Exhibit 401, it's not sub-designated, do you see
23 what's on your screen, Agent?

24 A. Yes.

25 Q. What is that?

1 A. I believe that's a prescription bottle containing
2 prescription pills. If I recall correctly, I think it was
3 tramadol.

4 Q. Tramadol?

5 A. Yes.

6 Q. I just want to show some of the pictures of the
7 marijuana that was seized.

8 A. Yes.

9 Q. I think you previously testified to these.

10 MR. GOLDMAN: Can we put these up on the screen? I
11 don't think you have any problems with these pictures, pictures
12 of the drugs found at the location.

13 MR. WITHERELL: I'm pretty confident I placed them
14 into evidence at some point.

15 BY MR. GOLDMAN:

16 Q. Can we quickly go through some of these?

17 A. Yes.

18 Q. Is that some of the marijuana you found at Sydenham?

19 A. Yes.

20 Q. Was it packaged like that?

21 A. However it's in the picture is how it was packaged.

22 Q. Next picture?

23 A. Yes.

24 Q. Same?

25 A. Yes.

1 Q. Those were in those plastic bottles of some sort,
2 correct, the ones I just showed you?

3 A. The marijuana was in some plastic capsule, yes.

4 Q. Is that marijuana also?

5 A. Yes.

6 Q. So there were larger bags of marijuana, correct?

7 A. Yes.

8 Q. And additional pictures of what was located; is that
9 correct?

10 A. Correct.

11 Q. And more pictures of marijuana; is that correct?

12 A. That's a duplicate. That's just a picture I took of
13 all of the evidence combined.

14 Q. So you have no doubt that people associated with OBH
15 were also dealing with marijuana, correct?

16 A. Correct.

17 Q. Now, you're FBI, obviously, and you are aware, are
18 you not, of who the DEA is?

19 A. Yes.

20 Q. DEA stands for Drug Enforcement Administration; is
21 that correct?

22 A. Correct.

23 Q. In fact, DEA, as far as the number of drug cases that
24 they have on any given year, conduct more drug investigations
25 than the FBI does, right?

1 THE COURT: That's not relevant. Next question.

2 BY MR. GOLDMAN:

3 Q. Are you aware that the DEA has stated that zip is a
4 slang word for marijuana?

5 A. No.

6 THE COURT: Yes or no?

7 THE WITNESS: I'm not aware of that.

8 BY MR. GOLDMAN:

9 Q. I'm going to show you a public document that's on the
10 internet. It's put out by DEA on July 2018, which is during
11 the course of this conspiracy, correct?

12 A. Correct.

13 Q. And it's titled "DEA Intelligence Report, Slang Terms
14 and Code Words: A reference for Law Enforcement Personnel."

15 MR. WITHERELL: Your Honor, before we go down this
16 route, I'd like to see what's being presented. I haven't seen
17 it. We might want to put it in in the entirety.

18 MR. GOLDMAN: I thought you said show it to the jury.

19 MR. WITHERELL: I'm going to ask just to see it.
20 This, obviously, has many more pages that would have slang
21 words.

22 THE COURT: Is there an objection?

23 MR. WITHERELL: Objection.

24 THE COURT: Overruled. Show it to the witness. Yes,
25 let the jury see it.

1 What's the question?

2 BY MR. GOLDMAN:

3 Q. That's the cover sheet, "Slang Terms and Code Words:
4 A Reference for Law Enforcement Personnel." This was put out
5 on the date of July 2018, which is during this conspiracy
6 that's alleged.

7 They have slang words for marijuana. Do you see
8 that?

9 A. Yes.

10 Q. Mr. Ortiz talked about slang of trees equating with
11 boots and Timberland?

12 A. I didn't see boots on that list.

13 Q. Do you see trees, though?

14 A. I know trees is, but I didn't know boots was. I
15 didn't see boots on that list.

16 Q. I'm interested particularly in this one, zip. Do you
17 see that?

18 THE COURT: Z-I-P?

19 MR. GOLDMAN: Z-I-P.

20 THE COURT: What's the question?

21 BY MR. GOLDMAN:

22 Q. Do you see the word "zip"?

23 A. I do see the word "zip."

24 Q. So DEA that does more investigations than the FBI --

25 THE COURT: No, that's not relevant.

1 What's the question?

2 BY MR. GOLDMAN:

3 Q. The question is, so you've learned today that there
4 are additional code words and explanations for zip than the one
5 you provided yesterday, which was the word "zip" in one of the
6 text messages is methamphetamine?

7 A. I believe last week during a controlled purchase a
8 recording was made where a CI asks for two zips.

9 Q. No, that's not what the question was.

10 A. I'm just clarifying.

11 Q. That's not the way it works. You testified yesterday
12 on a call. The question was put to you by Mr. Witherell what
13 is a zip, and you said it's crystal methamphetamine.

14 THE COURT: Is that correct?

15 THE WITNESS: It's an ounce of crystal
16 methamphetamine.

17 BY MR. GOLDMAN:

18 Q. Right. You have learned now for the first time that
19 marijuana is also referred to in slang as zip; is that correct?

20 A. Sure.

21 MR. GOLDMAN: Okay. Thank you. That's all I have.

22 THE COURT: All right. Redirect.

23 MR. STENGEL: Yes, please, Your Honor.

24 MR. MEEHAN: Actually, I didn't have my turn. I let
25 the other guys go first.

1 THE COURT: That's right. Your turn.

2 MR. STENGEL: Sorry about that.

3 - - -

4 CROSS-EXAMINATION

5 - - -

6 BY MR. MEEHAN:

7 Q. Good morning.

8 A. Good morning.

9 Q. Good work.

10 A. Thank you.

11 Q. A lot of time?

12 A. Lots of time.

13 Q. The vast majority of text messages in this report
14 that you compiled involving Abdul West involve him either
15 selling cocaine or crack or getting counts from Mr. Gadson.

16 Does that sound accurate?

17 A. Did you say the overwhelming majority?

18 Q. Of the entries involving Mr. West.

19 A. I would say the majority, but not the entirety.

20 Q. There's also entries from Mr. Blanding concerning
21 meth, correct?

22 A. Yes.

23 Q. But all of the entries concerning Mr. West involve
24 either soft, which is powder cocaine, correct?

25 A. Soft is powder cocaine.

1 Q. Or hard, which is crack-cocaine?

2 A. Yes. But I would not say all of the texts involve
3 those two.

4 Q. Right. There's one that alleges to be heroin; is
5 that correct?

6 A. There's one that alleges to be heroin, and there's
7 one -- a text between Defendant Blanding and someone else where
8 that person makes comment to -- they were put in contact with
9 Mr. Blanding through Mr. West for ice.

10 Q. But Mr. West is not selling the ice himself. He's
11 making an introduction; is that correct?

12 A. Correct.

13 Q. Thank you.

14 Was it your determination, or a different expert's,
15 that the one entry on, I believe it was February 12 of 2018,
16 that Mr. West is texting somebody named Garci and he says: Got
17 two racks on me you can come get.

18 What would you interpret that to mean?

19 A. Rack is a commonly used term to reference packaged
20 heroin.

21 Q. Would it also be a relatively popular term --

22 MR. STENGEL: Objection, Your Honor.

23 THE COURT: Overruled.

24 BY MR. MEEHAN:

25 Q. -- to describe a thousand dollars?

1 A. I've never heard that referred to before. I've only
2 heard it referred to for heroin, but it's possible.

3 Q. What's the particular amount of heroin that you're
4 assigning to a rack?

5 A. Heroin is packaged --

6 Q. Excuse me.

7 A. I'm going to give you the total to get there. Heroin
8 is packaged, at least someone testified to, in small glassine
9 packages. It's very small. It's less than a gram of heroin in
10 each package. So between ten to fourteen of those packages is
11 considered a bundle, which is a commonly sold denomination of
12 heroin on the street. A rack would be approximately ten
13 bundles put together.

14 Q. Ten bundles put together?

15 A. Yes.

16 Q. Did you assign the quantities on these or was it a
17 different expert?

18 A. That was --

19 MR. STENGEL: Objection, Your Honor. I believe he's
20 asking about an exhibit not in evidence.

21 THE COURT: Overruled.

22 BY MR. MEEHAN:

23 Q. You could answer.

24 A. I did not assign the weights. That was done by DEA,
25 DEA Group Supervisor Randy Updegraf.

1 Q. Because from what you're indicating, it would be --

2 MR. STENGEL: Objection, Your Honor. This exhibit is
3 not in evidence.

4 THE COURT: Let him finish the question.

5 MR. STENGEL: It's not in evidence, Your Honor.

6 BY MR. MEEHAN:

7 Q. It would be -- two racks of heroin would be more than
8 7.8 grams, correct?

9 A. I didn't do the weights. I'm sorry.

10 THE COURT: Do you know the relationship between
11 kilograms and pounds?

12 BY MR. MEEHAN:

13 Q. Going back to initially --

14 THE COURT: Let me ask a question. Do you know the
15 relation between kilograms and pounds, how many kilograms
16 constitute a pound?

17 THE WITNESS: I believe there's approximately a
18 little more than 2 pounds to a kilogram.

19 THE COURT: Next question.

20 MR. MEEHAN: Sure.

21 BY MR. MEEHAN:

22 Q. If you would again indulge me, you described what a
23 rack is?

24 A. Yes.

25 Q. Could you tell the ladies and gentlemen what a rack

1 is?

2 A. Yes. A rack is -- would be approximately ten bundles
3 of heroin. A bundle consists of ten to fourteen of those very
4 small packages that contain, again, less than a gram of heroin
5 powder.

6 Q. So two racks of heroin would certainly be more than
7 7.8 grams?

8 A. I can't speak to that.

9 Q. 7.8 grams is a quarter ounce, correct?

10 A. Yes.

11 Q. Just a little over?

12 A. Yes.

13 Q. There is no other text message in the compilation
14 that you put together where Mr. West is allegedly trying to
15 sell heroin; is that correct?

16 A. I don't think so.

17 Q. Okay. When you went to the Sydenham house, when the
18 search warrant was executed at that location, Mr. Harmon was in
19 the house, or in or about the house; is that correct?

20 A. Correct.

21 Q. Mr. Harmon was arrested and was charged as part of
22 this; is that correct?

23 A. Yes.

24 THE COURT: Well, that's not totally correct.

25 MR. MEEHAN: Oh, okay.

1 BY MR. MEEHAN:

2 Q. Mr. Harmon was an alleged co-conspirator who pled
3 guilty; is that correct?

4 THE COURT: That is incorrect. Mr. Harmon was not
5 charged with conspiracy; is that correct?

6 THE WITNESS: That's correct.

7 THE COURT: I'm not sure whether the agent knows
8 exactly who was charged with.

9 Is that correct? Mr. Harmon was not charged with
10 conspiracy, correct?

11 MR. STENGEL: That is true, Your Honor. Mr. Harmon
12 was not charged with conspiracy.

13 THE COURT: Next question.

14 MR. MEEHAN: Thank you.

15 BY MR. MEEHAN:

16 Q. But he was charged with possession of the drugs that
17 were at that location, correct?

18 A. Yes.

19 Q. So Mr. Harmon is in 3234 Sydenham Street. He gets
20 arrested at that location, correct?

21 A. Correct.

22 Q. He pleads guilty in front of Judge Baylson for
23 possession with the intent to distribute --

24 THE COURT: Well, just a minute. That's not
25 appropriate. The jury will disregard that. Next question.

1 MR. MEEHAN: Okay.

2 BY MR. MEEHAN:

3 Q. Mr. Harmon pleads guilty in front of Judge Baylson,
4 correct?

5 THE COURT: Well, does the Government object?

6 MR. STENGEL: Objection, Your Honor.

7 THE COURT: It's really not relevant what happened to
8 anybody else.

9 MR. MEEHAN: I'm not saying it was.

10 BY MR. MEEHAN:

11 Q. But Mr. Harmon --

12 THE COURT: Why ask the question?

13 The jury will disregard what happened to Mr. Harmon.
14 What happened to anybody else is not relevant. What is
15 relevant in this case is your verdict as to the charges against
16 these four defendants.

17 Next question.

18 BY MR. MEEHAN:

19 Q. Mr. Harmon was originally an alleged co-conspirator
20 with this matter, correct?

21 THE COURT: That's just not right.

22 Mr. Harmon was not charged with conspiracy. That's
23 been established. Do you have any -- forget it. Strike my
24 comments too.

25 What's the next question?

SPECIAL AGENT BECKER - REDIRECT

1 BY MR. MEEHAN:

2 Q. Mr. Harmon did, under oath in this courtroom, admit
3 that the drugs that were located at North Sydenham Street were
4 his, correct?

5 THE COURT: Do you know that?

6 THE WITNESS: I was not present for his change of
7 plea.

8 BY MR. MEEHAN:

9 Q. So that's not a no, correct?

10 A. No.

11 MR. MEEHAN: No further questions.

12 THE COURT: Redirect, Mr. Stengel.

13 - - -

14 REDIRECT EXAMINATION

15 - - -

16 BY MR. STENGEL:

17 Q. Starting where we ended, Mr. Dennis Harmon, he was
18 charged with aiding and abetting the possession of the drugs at
19 Sydenham Street, correct?

20 A. Correct.

21 Q. Aiding and abetting who?

22 A. The rest of the defendants at this table.

23 Q. And that's what he pled guilty to, correct?

24 MR. GOLDMAN: Judge, how can the Government do it?

25 THE COURT: Sustained. Sustain the objection.

1 Ladies and gentlemen, I asked you to ignore the
2 questions and any testimony about what happened, what did or
3 did not happen to Mr. Harmon, and I'll strike it from the
4 record.

5 MR. STENGEL: This is what Mr. Goldman published to
6 the jury.

7 MR. GOLDMAN: Your Honor, I guess I should put an
8 exhibit number on this, Gadson D-1.

9 THE COURT: Sure. Put the exhibit number on it
10 later.

11 What is the question?

12 MR. STENGEL: Your Honor, while he's marking this,
13 this appears to be an incomplete document. If Mr. Goldman has
14 the rest of it, I think we should admit the entire thing.

15 THE COURT: We'll discuss that later. Ask the
16 question. Just show the jury what Mr. Goldman showed.

17 BY MR. STENGEL:

18 Q. Mr. Goldman has marked this as Gadson D-1. I'll show
19 you the first page. Do you see that?

20 A. Yes.

21 Q. This is what he showed you?

22 A. Correct.

23 Q. At the bottom, do you see a page number here at the
24 bottom of this title page?

25 A. I think you have to move it up a tiny little bit.

1 Q. Sure.

2 THE COURT: Well, what is the page number?

3 BY MR. STENGEL:

4 Q. There's no page number there, correct?

5 A. Correct.

6 Q. And here we see a page number -- let me see if I can
7 focus that.

8 THE COURT: Just read the page number.

9 BY MR. STENGEL:

10 Q. Sure. So there's now a page number. There you go.
11 Do you see that page number two?

12 A. Correct.

13 Q. And then it's a two-page document I have here, and it
14 goes to page number five, correct?

15 A. Correct.

16 Q. And what page number do you see at the bottom there?

17 A. Six.

18 Q. And where it says -- it looks now like a section --
19 do you see this bottom section here?

20 A. Yes.

21 Q. And what's the heading for that section?

22 A. Marijuana concentrates/hash oil.

23 Q. And then at the very end it has a -- it lists a
24 number of words, correct?

25 A. Yes.

1 Q. Ending with a semicolon?

2 A. Yes.

3 Q. Does it appear that there's more to this document?

4 A. Correct.

5 Q. Again, that's a document by the Drug Enforcement
6 Administration, as I believe Mr. Goldman proffered?

7 A. Sure.

8 Q. We saw a lot of photographs earlier with the drugs
9 with marijuana recovered from the Mansion. Do you recall that?

10 A. I do.

11 Q. On September 11, 2017?

12 A. Yes.

13 Q. When the Philadelphia Police Department executed
14 their search warrant at the Mansion, what else was there?

15 A. There was crystal methamphetamine, there was heroin,
16 and there was crack-cocaine.

17 Q. And in the Impala parked outside of 3234 Sydenham
18 Street, what was found in there?

19 A. Powder cocaine and crack-cocaine.

20 Q. We looked at this PowerPoint presentation and we read
21 from it at length yesterday. To be clear, that PowerPoint
22 presentation we looked at yesterday included what information?

23 A. A heading and then a copy and pasted text message
24 conversation taken from the phone extractions we did of the 61
25 phones we seized.

1 Q. Were there any totals included on those slides?

2 A. No.

3 Q. What did you do with the slides we saw yesterday?

4 A. I sent that PowerPoint presentation to Expert DEA
5 Agent Randy Updegraf.

6 Q. For what purpose?

7 A. To gather totals for each slide.

8 Q. So at no point yesterday did you opine to the totals
9 in those slides, correct?

10 A. I did not.

11 Q. We talked -- and in that PowerPoint Mr. Goldman was
12 asking you started, I believe, the first text with
13 Mr. Goldman's client, Hans Gadson. I believe it was in
14 November.

15 MR. GOLDMAN: Yes, November 27.

16 BY MR. STENGEL:

17 Q. November 27. The texts that you selected to go into
18 that PowerPoint presentation, what was the common thread?

19 A. I'm not sure what you're asking.

20 Q. Why are those text messages in there?

21 A. Those text messages, again, I felt were narcotics of
22 nature and could have a weight of narcotics attributed to the
23 message.

24 Q. I'm going to show you what's been marked, I believe
25 we saw this yesterday, Government Exhibit 4004. Do you see

1 this?

2 A. Yes.

3 Q. Okay. And then what is this?

4 A. It's a text message conversation between someone
5 saved as Kidd Kidd in Defendant Blanding's phone and Defendant
6 Blanding.

7 Q. What does the text message say?

8 A. Kidd Kidd asks: Where you at?

9 Blanding replies: I'm around my way. Where you at?

10 Kidd Kidd says: About to come pick some money up
11 from Bras.

12 Blanding replies: Be at the Mansion in 20 minutes.

13 Kidd Kidd says: Okay.

14 Q. And the date on that is what?

15 A. September 3, 2017.

16 MR. STENGEL: Can we show the witness Government
17 Exhibit 4005, please?

18 BY MR. STENGEL:

19 Q. And what do we see here?

20 A. A conversation between Mr. Gadson and Mr. Blanding.

21 Q. And what does it say?

22 A. Mr. Gadson writes: He gone grab a G to see what it
23 do after the Eagles game. Put it together for me.

24 Blanding replies: Okay.

25 Gadson then follows up asking: You put that

1 together? I'm on my way to the Mansion.

2 Q. We saw a conversation, I don't mean to embarrass you,
3 there was another mislabeled text message. I believe it was at
4 917, correct?

5 A. Yes. Thank you.

6 MR. STENGEL: Permission to show the witness what's
7 been marked as 917. Mr. Ortiz was just reviewing with it.

8 THE WITNESS: Thank you, Mr. Ortiz.

9 MR. STENGEL: This wasn't the one. What's the
10 conversation?

11 THE TECHNICAL ASSISTANT: 4095.

12 BY MR. STENGEL:

13 Q. 4095, please. This is the one where it says
14 September 29, 2017, but the body of it says it's November 29,
15 2017, correct?

16 A. Correct.

17 Q. Pertinent to your investigation, where does this text
18 fall in the timeline?

19 A. Just after the first trip to Los Angeles.

20 Q. And if you could please read -- just read that
21 first -- the box from Poe to Abdul West, please.

22 MR. MEEHAN: I'm going to object. This is beyond the
23 scope, Judge.

24 MR. GOLDMAN: Agreed.

25 MR. STENGEL: Mr. Ortiz was asking him about this

1 text.

2 THE COURT: Overruled.

3 THE WITNESS: Poerilla writes to Defendant West:

4 Listen, I told Chino that shit was mad slow and you were having
5 some issues this go around. Just not to fuck up what I got
6 going on with him. It be better if you or cuz holla at him or
7 I'll come out there with him. I don't know. Your call. By
8 the way, I threw in the air the way you said we can work it off
9 and he gone be with it. What choice does he have? And when
10 can I grab what paper you said you would throw me. I got to
11 slide that to him anyway because I need to keep on rocking with
12 him. And I def need to holla at you about the new situations.

13 BY MR. STENGEL:

14 Q. Mr. Ortiz also asked you about the term "joint"
15 that's used in the one text, in the PowerPoint presentation
16 related to Mr. Hickson, and he referenced the word "jawn,"
17 J-A-W-N.

18 We're not all from Philadelphia in this courtroom.
19 Just for the record's sake, what do you understand that term to
20 mean, jawn?

21 A. Jawn is a very commonly used slang term around the
22 Philadelphia area. It can be an adjective for almost anything.
23 A gun could be a jawn. My tie could be a jawn. My shoe could
24 be a jawn. Drugs could be jawns. Given the context of the
25 conversation between two people who know what they're referring

1 to, jawh can be used as a substitute for whatever noun they're
2 describing.

3 Q. Mr. Ortiz was also asking you about some items that
4 were seized from Mr. Hickson's apartment, and we saw a big bag
5 of marijuana, right?

6 A. Yes.

7 Q. And we saw plastic bags which he described as
8 commonly used for packaging drugs, correct?

9 A. Correct.

10 Q. He also found a scale?

11 A. We found a scale.

12 Q. I'm sorry. You found a scale. And what was on that
13 scale?

14 A. Residue of methamphetamine and residue of cocaine.

15 Q. What's a scale used for?

16 A. To measure the weight of narcotics.

17 Q. I'm not going to -- Mr. Hughes was asking you about
18 the video from outside of apartment 717 at One Water Street
19 Apartments.

20 A. Yes.

21 Q. And in that video, we saw two individuals walk
22 through. You had seen those individuals before, correct?

23 A. Correct.

24 Q. Where?

25 A. Out front of the One Water Street Apartments.

1 Q. And they were who?

2 A. Alleged co-conspirator Hoover and Defendant Jamaal
3 Blanding.

4 Q. I'm showing you what's been marked as Government
5 Exhibit 4038. This is a text message we read through yesterday
6 from May 3, 2018 with Richard Chase Hoover and Jamaal Blanding,
7 and what are they talking about in this text message?

8 A. Talking about dubbing or duplicating keys.

9 Q. And in the video that we watched with Mr. Hughes, who
10 opened the door to apartment 717?

11 A. Defendant Jamaal Blanding.

12 Q. Using what?

13 A. Keys.

14 Q. My notes are a little jumbled, but I think it was
15 Mr. Hughes who asked you about the term "OG" and how OG could
16 be used in the context of marijuana, correct?

17 A. Correct.

18 Q. In the Mansion, heroin was recovered, correct?

19 A. Yes.

20 Q. What was written on the packaging?

21 A. OG.

22 MR. STENGEL: Government Exhibit 4001, please.

23 BY MR. STENGEL:

24 Q. Mr. Hughes asked you whether you even considered
25 whether what we see on what you describe as a tally sheet are

1 names, and you answered you didn't consider that.

2 A. Correct.

3 Q. Why not?

4 A. Based on the totality of the investigation, being
5 that it was of narcotics at nature, when I see terms that are
6 very commonly referred to terms for narcotics, such as soft,
7 hard, and glass, that's going to be my assumption based on all
8 the evidence.

9 Q. We also saw on, it was Government Exhibit 922, we
10 don't trust the process, we trust the Pyrex, right? I'm
11 paraphrasing.

12 Trust the process has to do with who?

13 A. Philadelphia 76ers.

14 Q. And "trust the Pyrex" refers to what, in your
15 opinion?

16 A. In my opinion, Pyrex, again, a pot or a dish used to
17 cook crack-cocaine.

18 Q. Mr. Hughes asked you whether you're aware that those
19 were certain hip-hop lyrics and he asked you whether you had
20 consulted with a hip-hop expert as to whether this social media
21 post might be referring to something other than cooking coke
22 into crack.

23 You did not, correct? You did not consult with a rap
24 expert?

25 A. Correct. Just because it's a rap lyric doesn't mean

1 it's not a reference to drugs.

2 Q. But who did you consult with?

3 A. DEA Special Agent Randy Updegraf.

4 Q. This is my last question. Mr. Hughes had asked you
5 about whether Richard Chase Hoover had been identified as a
6 person of interest by the time he went to California in
7 November.

8 Was he a person of interest?

9 A. Yes, he was.

10 Q. Why?

11 A. We identified Mr. Hoover on a number of reasons,
12 based off of the call detail records, from toll analysis we
13 received, from the phone calls and text messages that Mr. West
14 was making, we identified Mr. Hoover's number. Based on
15 subscriber information, we found that that phone was subscribed
16 to, again, Mr. Hoover.

17 Doing what the FBI does, we investigated Mr. Hoover a
18 little bit and determined that he has a CDL, or commercial
19 driver's license, and he also has ties to the West Coast.
20 Being that we determined that OBH was involved in narcotics
21 trafficking, we felt it was possible that Mr. Hoover may be
22 involved in transporting narcotics from the West Coast back to
23 Philadelphia.

24 So we applied for a pen register, which includes the
25 cellular site data, just to see what he does, and within a

1 couple weeks, we observed the cellular site data from
2 Mr. Hoover's phone traveling west towards California.

3 Q. My question was a little simpler. He was a person of
4 interest because of his contacts with whom?

5 A. Defendant Abdul West.

6 THE COURT: Any further redirect?

7 MR. STENGEL: No. We're good. Thank you.

8 THE COURT: Any recross?

9 MR. HUGHES: Yes.

10 THE COURT: You can ask it from there.

11 MR. HUGHES: Thank you, Your Honor.

12 - - -

13 RECROSS EXAMINATION

14 - - -

15 BY MR. HUGHES:

16 Q. Special Agent Becker, we were talking about jaw'n,
17 like, this jaw'n right here?

18 A. Could be.

19 Q. What about look at this joint?

20 THE COURT: You're indicating your necktie?

21 MR. HUGHES: Yes. Sorry.

22 BY MR. HUGHES:

23 Q. I could also say look at this joint?

24 A. You can say everything. I've never really heard
25 joint referred to as the same terms as jaw'n. I think that was

1 a little bit before my time. But I hear jaw'n ad nauseam.

2 Q. You hear jaw'n a lot, but you do agree that you have
3 heard joint used in the same way?

4 A. No, I haven't heard that.

5 Q. You have not?

6 A. No.

7 Q. Now, we talked about the surveillance briefly. I
8 just want to clarify something. I'm sorry. There's discussion
9 of the surveillance of Mr. Blanding as well as there is talk
10 about execution of search warrants, I believe.

11 I just want to clarify. At no time on surveillance
12 did you ever see Mr. Blanding hand Mr. Hoover a bag that could
13 contain narcotics or money, correct?

14 A. Correct.

15 Q. At no time did you ever see Mr. Hoover hand
16 Mr. Blanding a bag that could contain drugs or narcotics, and
17 I'm talking about Los Angeles and Philadelphia, correct?

18 A. Correct.

19 Q. And on two occasions, federal law enforcement went
20 into Mr. Blanding's residence at 1815 JFK?

21 A. Yes.

22 Q. One was a search warrant; one was when he was
23 arrested?

24 A. Correct.

25 Q. On those occasions, no cocaine was recovered, right?

1 A. No.

2 Q. No methamphetamine was recovered, right?

3 A. None.

4 Q. No heroin?

5 A. No.

6 Q. No guns?

7 A. No guns.

8 Q. No packing material?

9 A. I don't know if I can say that definitively. I don't
10 recall, but I'm not sure.

11 Q. Fair enough. No residue on any objects in the house,
12 correct?

13 A. Again, I can't say that definitively, but I don't
14 think so.

15 Q. Okay. And that's over the course of two different
16 searches where the passage of time -- well, sorry. For clarity
17 of the record, that's one search warrant executed and then one
18 search done incident to arrest?

19 A. Yes. Both those searches were after the warrant
20 executed at One Water Street.

21 Q. And all those substances, guns, scales, none of those
22 objects, to your recollection -- and if you have any doubt, we
23 can grab you some 302's -- were recovered at the residence
24 where he was staying, correct, 1815 JFK?

25 A. At 1815 JFK, no, there was not.

1 MR. HUGHES: Thank you. No further questions.

2 THE COURT: Thank you. That concludes the testimony.

3 THE WITNESS: Thank you.

4 (Witness excused.)

5 THE COURT: We're going to take our mid-morning break

6 at this time, ladies and gentlemen. Please keep an open mind

7 and don't discuss the case. Ten minutes. Thank you very much.

8 (The jury exits the courtroom at 10:42

9 a.m.)

10 THE COURT: Okay. Who is the next witness?

11 MR. STENGEL: Federal Agent BJ Simpson, Your Honor.

12 THE COURT: Is this going to be the video.

13 MR. WITHERELL: One additional tape that is ten

14 minutes.

15 THE COURT: This is the video that will run about an

16 hour plus?

17 MR. STENGEL: Yes.

18 THE COURT: I'm going to give a short statement about

19 this being a summary under Rule 1006 for the jury.

20 MR. WITHERELL: What would be a summary?

21 THE COURT: You're going to introduce 3004.

22 MR. STENGEL: No. That's through Rand Updegraf.

23 MR. WITHERELL: The video is 2013. It's a video of

24 Hans Gadson. It's something separate.

25 THE COURT: Not the text messages.

1 MR. WITHERELL: Not the text messages.

2 MR. STENGEL: Your Honor, can we talk about the
3 exhibit for a second, the DEA exhibit that Mr. Goldman
4 admitted?

5 THE COURT: He can mark it. If he wants to introduce
6 it when it comes to his case, we'll consider it then.

7 MR. STENGEL: I understand that's a DEA document. I
8 believe it's a small portion of a DEA document. We looked up
9 the rest of the DEA document, which would actually be helpful
10 toward the Government's position.

11 THE COURT: Well, if you want to introduce --

12 MR. STENGEL: Would we be able to introduce the full
13 thing through Special Agent Updegraf?

14 THE COURT: I'm not going to jump ahead. Mr. Goldman
15 was entitled to use it to cross-examine the witness. It's been
16 marked. That's all it states. It's been shown to the jury,
17 but it's not been introduced into evidence. I feel it's proper
18 cross-examination. So we're not going to discuss long-term
19 evidentiary situations right now.

20 Yes, sir.

21 MR. WITHERELL: The only point I have to it, Judge, I
22 just want the Court to be aware, it is a 60-plus page document.
23 The two pages that Mr. Goldman pulled out and didn't
24 cross-examine him, presented them to the jury, shows that zip
25 is a commonly used term for marijuana. In the very next page,

1 methamphetamine is there, which also contains the word "zip."

2 THE COURT: You can show that. If you think it's
3 important, you can show that to the jury or have another
4 witness describe it.

5 Mr. Hughes, where do we stand with your expert?

6 MR. HUGHES: He's here, Your Honor.

7 THE COURT: He's here?

8 MR. HUGHES: Yes, second row, Your Honor, dead
9 center.

10 THE COURT: Do you want to call him next out of turn?
11 I think that would be a good idea.

12 MR. HUGHES: We would prefer to put him after Agent
13 Updegraf. He's actually been able to clear his whole day, and
14 given the significant amount of material that he's had to
15 review, it would be much better and more effective if he was
16 able to testify after DEA Agent Updegraf.

17 THE COURT: Well, now just a minute. When is Agent
18 Updegraf coming? Is it going to be after the video?

19 MR. STENGEL: It will be the video, then Special
20 Agent Shute, then Special Agent Updegraf. So he's ready to go.

21 THE COURT: Who is ready to go?

22 MR. STENGEL: Special Agent Updegraf is going to be
23 our last witness, but he's around today whenever we need him.
24 I told him it might be right after lunch. I told him it might
25 be right around lunch. We have the video played through

1 Special Agent Simpson, who is no longer here. We have Special
2 Agent Shute with the FBI.

3 THE COURT: How long is his direct?

4 MR. WITHERELL: Mr. Shute?

5 THE COURT: Yeah.

6 MR. WITHERELL: I'm going to try to keep it under an
7 hour. There's a lot of information to go through.

8 THE COURT: These are text messages?

9 MR. WITHERELL: These are cell site data containing
10 all the six trips.

11 THE COURT: This is the cell site?

12 MR. WITHERELL: Correct.

13 THE COURT: Well, I don't want the situation to
14 evolve that Mr. Hughes's witness doesn't get on today.

15 Can we call Agent Updegraf now?

16 MR. STENGEL: Those three --

17 THE COURT: I don't want to run into a problem that
18 we get to -- I did not think that Agent Becker's cross would
19 take as long as it did.

20 MR. GOLDMAN: Your Honor, those three witnesses are
21 going to be over three hours.

22 THE COURT: They may be. That's why I want to
23 call --

24 MR. HUGHES: Your Honor, I was just informed --
25 sorry, Mr. Goldman. Mr. Leff informed me that he was able to

1 clear his schedule for all of today and tomorrow in an
2 abundance of caution.

3 THE COURT: All right. So he can be here tomorrow
4 morning, if necessary?

5 MR. HUGHES: He could be here tomorrow morning, if
6 necessary.

7 THE COURT: All right. That's your choice then.
8 That's what we'll do.

9 MR. HUGHES: Also, Your Honor, I have a number of
10 civilian witnesses that I had lined up for today. It sounds
11 like I'm not going to be able to get them on today.

12 THE COURT: If any of them are not available
13 tomorrow, you can call them today. Find out. Counsel, we are
14 going to move ahead witness by witness and finish the testimony
15 as promptly as we can, and I'm going to make sure that defense
16 counsel have an opportunity to put their witnesses on. So I
17 need to know ahead of time of any problems. So you need to
18 find out if any of your civilians are not available tomorrow.
19 They may get on this afternoon.

20 MR. HUGHES: Yes, Your Honor. One individual in
21 particular is an entertainment lawyer. His name is Jason
22 Berger. It was difficult to schedule him. He's coming at
23 12:00 noon. He would be a 10-minute witness.

24 THE COURT: All right. Then we'll interrupt at 12:00
25 noon.

1 MR. HUGHES: Thank you, Your Honor. I appreciate it.

2 THE COURT: That's the plan.

3 MR. WITHERELL: Your Honor, we haven't been provided
4 any information of any defense witnesses.

5 THE COURT: You're not entitled to it. You're right.

6 MR. WITHERELL: At some point I think we should get
7 the names of the people who are being called.

8 THE COURT: I'm not going to require defense counsel
9 to give you any advance notice of anything. I'm sorry. I
10 don't think you're entitled to it, and I don't want to commit
11 reversible error by some newfangled court ruling. Okay. Ten
12 minutes.

13 (Recess taken from 10:48 a.m. to 11:07
14 a.m.)

15 THE COURT: All right. Let's bring the jury in,
16 please.

17 Where is Mr. Hughes?

18 MR. GOLDMAN: He was right outside, Your Honor.

19 THE COURT: Could you ask counsel to come in, please?
20 Mr. Ortiz is out there too. I just want to say to counsel that
21 any witnesses you intend to call have to be sequestered like
22 all other witnesses. You're aware of that, I'm sure.

23 MR. WITHERELL: There are some witnesses in the
24 courtroom.

25 THE COURT: They need to be out of the courtroom.

SPECIAL AGENT SIMPSON

(The jury enters the courtroom at 11:08
a.m.)

THE COURT: All right. I just want to be clear the
witnesses for all parties except for the case agents have to be
sequestered.

Agent Simpson, state your name for the record.

THE WITNESS: Special Agent Charles Simpson.

THE COURT: All right. You're still under oath.

THE WITNESS: Thank you, Your Honor.

MR. GOLDMAN: Your Honor, just on that last thing
that you stated, an expert's permitted to sit in.

THE COURT: No. Well, we'll discuss it at lunchtime,
but at the moment, no.

MR. HUGHES: Would you like our expert to step out,
Your Honor?

THE COURT: All witnesses except the case agents
should be sequestered. That's right.

MR. HUGHES: Understood.

May we readdress that after this witness, Your Honor?

THE COURT: Lunchtime.

MR. HUGHES: Thank you.

THE COURT: Go ahead.

- - -

DIRECT EXAMINATION

- - -

SPECIAL AGENT SIMPSON

1 BY MR. WITHERELL:

2 Q. Good morning, Special Agent Simpson. How are you?

3 A. I'm doing good. Thank you.

4 Q. Mr. Simpson, unfortunately, I think the first thing I
5 want to talk about is an additional recorded phone call that we
6 heard much about last Friday, but there's one additional one
7 I'd like to play.

8 MR. WITHERELL: So with the Court's permission, I'd
9 like to show 2038 to the witness.

10 BY MR. WITHERELL:

11 Q. Just to recap, we had a series of recorded phone
12 calls from Mr. Daryl Baker to various individuals. I want to
13 talk about a phone call dated December 28, 2017.

14 Did you have an opportunity to listen and review that
15 phone call?

16 A. Yes.

17 Q. And can you tell the members of the jury who that
18 phone call -- who the participants are?

19 A. Daryl Baker and Defendant Abdul West.

20 Q. You had an opportunity to review a transcript
21 associated with that phone call?

22 A. Yes.

23 Q. And is it true and accurate to the best of your
24 ability?

25 A. Yes.

SPECIAL AGENT SIMPSON

1 Q. Again, we're not going to play the entire phone call,
2 just some pertinent parts; is that correct?

3 A. That's correct.

4 MR. WITHERELL: Your Honor, I'm going to move in
5 2037, which is the recording with the accompanying transcripts.
6 I'm going to ask it be played for the jury.

7 THE COURT: Admitted.

8 (Exhibit G-2037 admitted into evidence.)

9 (The audio recording is played for the
10 jury.)

11 BY MR. WITHERELL:

12 Q. Special Agent Simpson, Boog has been identified in
13 your investigation as whom?

14 A. Richard Chase Hoover.

15 Q. Now, I want to change paths. We learned about some
16 arrests that were made on October 18, 2018 involving several
17 defendants in this case. Do you recall hearing testimony in
18 that regard?

19 A. Yes.

20 Q. To your knowledge, was an arrest attempted on
21 Defendant Hans Gadson on October 18, 2018?

22 A. Yes.

23 Q. And where was that attempted arrest made?

24 A. I believe the address is 3524 North Sydenham Street.

25 Q. That would be a known address of the defendant?

SPECIAL AGENT SIMPSON

1 A. Yes.

2 Q. Was he found at that time at that location?

3 A. He was not located there.

4 Q. Okay. Did there come a time in March of 2018, I'm
5 going to say March 7 of 2018, that you did arrest Hans Gadson?

6 A. Yes.

7 Q. Where did that happen?

8 A. That happened at an apartment building located in
9 Woodland Hills, California, which is basically Los Angeles.
10 The name of the apartment complex was Ocean0 at Warner. I
11 believe the address is 6355 DeSoto Avenue in Woodland hills,
12 California.

13 Q. Who was present with you at the time of that arrest?

14 A. Special Agent Becker.

15 Q. And do you recall approximately what time that arrest
16 was?

17 A. Approximately 9:05 a.m.

18 Q. That's Pacific time?

19 A. Pacific time.

20 Q. Can you please tell us the facts and circumstances
21 surrounding that arrest, what happened when you were there?

22 A. Absolutely. So that morning Special Agent Becker and
23 myself traveled to the apartment complex. We arrived on
24 location approximately 8:45 a.m.

25 The operation was kind of twofold, to arrest --

SPECIAL AGENT SIMPSON

1 locate and arrest Mr. Gadson, but also gather some intelligence
2 regarding the apartment building and a potential residence
3 where Mr. Gadson might be residing.

4 When we arrived, the management office wasn't open
5 yet. That was kind of our first step, to talk to management.
6 So we stood outside in the courtyard until about 9:00 a.m., you
7 know, right around 9:00 a.m. when we thought we'd go in the
8 management office.

9 But at about 9:05 a.m., before we had a chance to go
10 in, Mr. Gadson actually walked right up to us in the courtyard,
11 and we placed him under arrest in that location.

12 Q. When you say he walked up to you, did he walk up to
13 you as if he knew who you were, or did he walk in your
14 direction?

15 A. I don't think he knew who we were.

16 Q. And he was placed under arrest?

17 A. He was placed under arrest.

18 Q. Where was he transported to?

19 A. He was transported from that location to a homicide
20 division police -- basically, a police division in Los Angeles.
21 Special Agent Becker and myself were stationed, at the time,
22 were both stationed in Philadelphia. So, you know, we were in
23 contact with Los Angeles counterparts but didn't really
24 anticipate arresting Mr. Gadson that quickly, so we kind of had
25 to stop and figure out where we were going.

SPECIAL AGENT SIMPSON

1 So an agent out there helped us with being able to
2 transfer him to a location that we could get to in 9:00 a.m.
3 traffic in LA that wouldn't be too terrible, which it ended up
4 being a pretty long drive anyways, where we could, you know,
5 process him, go over paperwork, and then move him to, you know,
6 the courthouse from there.

7 Q. When you brought him to this location, this police
8 station, did you have an opportunity to speak with Mr. Gadson?

9 A. Yes.

10 Q. Was that conversation recorded using audio and video
11 equipment?

12 A. Yes, it was.

13 Q. Have you seen a copy of that recording?

14 A. Yes.

15 Q. Does it accurately reflect the conversation that you
16 had with Mr. Gadson on March 7, 2018?

17 A. Yes.

18 Q. There's certain redactions made on that recording?

19 A. Yes.

20 MR. WITHERELL: And, Your Honor, agreed upon by both
21 parties to the redaction, I'm going to ask that now we play
22 that video of that statement, which is marked as Government
23 2013.

24 MR. GOLDMAN: No objection at all, Your Honor.

25 THE COURT: Okay. Go ahead. Without objection.

(Whereupon the video is shown to the jury.)

MR. WITHERELL: Special Agent, I don't think I have any questions.

THE COURT: Any cross-examination?

MR. GOLDMAN: I will. Your Honor, it's quarter to 1:00. I know I have to use the men's room.

THE COURT: All right. Anybody else?

Ladies and gentlemen, it's 12:45. I think we'll take our lunch break now, but because your lunch is brought in, we're going to shorten it. Would 40 minutes be enough time for the jury to have lunch? So we'll resume at 1:25.

THE JUROR: Can you talk into the microphone? It's hard to hear you.

THE COURT: Is that enough time?

THE WITNESS: He said 1:25.

THE COURT: You can go out if you want to get some fresh air. I think it's pretty cold outside. We brought your lunch in, so we could have a short lunch. Thank you. The jury is excused.

(The jury exits the courtroom at 12:41 p.m.)

THE COURT: All right. Sequestration. I thought that we had a sequestration rule except for the two case agents. Now, Mr. Hughes, your expert, I didn't realize he was your expert. He was sitting there all morning except for this

SPECIAL AGENT SIMPSON

1 last bit of testimony, which I don't think affects. I think in
2 fairness to both sides, witnesses for both sides should be
3 sequestered.

4 MR. HUGHES: I'm sorry, Your Honor. My
5 understanding, if it's an expert witness and he's not going to
6 testify about anything factually, that it did not.

7 THE COURT: That may apply in some cases, but there's
8 no general rule about that.

9 What's the Government's view on the matter?

10 MR. WITHERELL: Judge, I thought the rule was that we
11 would have sequestration of witnesses. I actually have no
12 objection if they want their witness to sit in.

13 THE COURT: Your Agent Updegraf, he hasn't listened
14 in, has he?

15 MR. WITHERELL: No, I don't believe he has.

16 THE COURT: I think all witnesses should be
17 sequestered.

18 MR. GOLDMAN: Your Honor, may I be heard on this?

19 THE COURT: Yeah.

20 MR. GOLDMAN: It's my understanding, Your Honor, the
21 Government's expert is going to be testifying to drug slang,
22 and Mr. Hughes and all of us have, through these witnesses, a
23 rebuttal to what he says. They have to hear what he says in
24 order to provide their expert opinion.

25 THE COURT: Is that what your expert is about, the

1 quantity?

2 MR. HUGHES: Yes, Your Honor. In interest of time --

3 THE COURT: Is that his testimony about the drug
4 quantities?

5 MR. HUGHES: Drug quantities, the slang that's being
6 interpreted by DEA. So it is very important that he --

7 THE COURT: All right. I'll allow him to sit in
8 during Updegraf's testimony.

9 MR. WITHERELL: I think, Your Honor, there are two
10 experts. I don't want to conflate them. I understand
11 Mr. Hughes' expert is going to talk about drug slang. I don't
12 know what Mr. Ortiz's expert is going to talk about.

13 MR. ORTIZ: Your Honor, my expert reviewed evidence
14 related to my client, basically, in a nutshell. It's going to
15 be similar testimony, but it's going to be related to my client
16 in terms of his arrest, what was found in his apartment, and
17 the languages used in his texts.

18 THE COURT: Well, he can sit in during Updegraf's
19 testimony if he wants.

20 Is it going to contradict Updegraf to some extent?

21 MR. ORTIZ: I don't know if it's going to contradict.
22 He's got his interpretation. He's looked at the texts. He's
23 looked at photographs. So he's going to make his
24 interpretation as to what certain words mean. I don't know
25 what Updegraf is going to say.

SPECIAL AGENT SIMPSON

1 THE COURT: I'll make an exception for defense
2 experts to sit in for Updegraf.

3 MR. WITHERELL: I just want to be clear, because I
4 believe we just got the CVs of both experts, that their
5 expertise is going to be on slang used in text messages? I
6 think that's what the defense attorney is saying.

7 THE COURT: I don't want to prolong this. I don't
8 think I have any authority to require the defendants to
9 foreclose any of their testimony ahead of time. That's my
10 belief.

11 So how long will the cross be of this witness,
12 Mr. Goldman?

13 MR. GOLDMAN: Not long, Your Honor. This helps to
14 condense it.

15 THE COURT: Then we'll move on to the other FBI
16 agent, right?

17 MR. WITHERELL: Yes, Your Honor.

18 MR. HUGHES: Your Honor, I do have a civilian
19 witness.

20 THE COURT: When do you want to call him?

21 MR. HUGHES: I could squeeze him in after
22 Mr. Goldman's cross.

23 THE COURT: How about we have him testify right when
24 we come back from lunch?

25 MR. HUGHES: That would be fine, Your Honor, at the

1 Court's pleasure. He'll be a brief witness.

2 THE COURT: Let's do that. Have him here. He'll
3 take the stand.

4 How long will his direct be?

5 MR. HUGHES: I think five minutes, Your Honor.

6 MR. WITHERELL: Your Honor, may I ask a question?

7 THE COURT: Yes.

8 MR. WITHERELL: Just for my own well-being.

9 THE COURT: Yeah.

10 MR. WITHERELL: Do you think that you'll be requiring
11 the Government to close today? I would request that, with
12 going now into the afternoon --

13 THE COURT: All right. I will not request you to
14 close today. We're going to have directed verdicts when the
15 jury leaves, whether the Government has rested or not. If
16 there's any testimony left over, you'll make an offer of proof,
17 and then we'll have the directed verdict colloquy with the
18 defendants here and counsel.

19 MR. WITHERELL: Thank you, Your Honor.

20 THE COURT: Hopefully we'll have closings first thing
21 tomorrow morning and possibly the charge.

22 All right. I am going to bring in a revised verdict
23 sheet when I come back from lunch for all of you to look at.
24 Thank you. Please be on time.

25 (Whereupon a luncheon recess is taken.)

SPECIAL AGENT SIMPSON

1 MR. WITHERELL: Your Honor, I'd like to bring this to
2 the Court's attention. I think at the end of the day, I think
3 we should admonish the jury not to look at any video or TV. I
4 want to inform the Court that, in relation to this case, an
5 arrest was made last week. I do believe that's going to be
6 unsealed today. I do believe there's some publicity going to
7 be associated with that. I don't want to bring their attention
8 to it. I just think as the normal course of business --

9 THE COURT: Tell them not to read anything.

10 MR. WITHERELL: Yeah, read the newspaper. I don't
11 think you have to direct their attention to it. I just think
12 it would be appropriate.

13 MR. STENGEL: Your Honor, we have Special Agent
14 Updegraf here. We had talked earlier about experts in the
15 courtroom. We are ready for him to sit in.

16 THE COURT: Yes. All right. Okay. Where is
17 Mr. Hughes? Where is your witness?

18 MR. HUGHES: Your Honor, I have my investigator just
19 to get in the Instagram slides quickly. That will take two
20 minutes. And then my next witness is in the hallway, just
21 foundational, and then the entertainment attorney is in the
22 hallway.

23 THE COURT: Bring him in. I want the jury in. I
24 want to swear them in. What about the Instagram? I don't
25 understand.

EVERMAN - DIRECT

1 MR. HUGHES: Mr. Everman is going to confirm that the
2 PowerPoint slides came from Instagram.

3 THE COURT: So you want to call both of them?

4 MR. HUGHES: Yes, Your Honor.

5 THE COURT: Bring in the jury. All the defendants
6 are here.

7 (The jury enters the courtroom at 1:29
8 p.m.)

9 THE COURT: Ladies and gentlemen, you're back. We're
10 going to take a witness out of turn. Mr. Hughes has two
11 civilian witnesses who he tells me are going to be very short,
12 so we're going to interrupt before we have the
13 cross-examination of the agent, you can present your testimony.
14 Swear in the witness, please.

15 THE CLERK: Please raise your right hand.

16 (Witness sworn.)

17 THE CLERK: Thank you. Please state your full name
18 and spell your last name for the record.

19 THE WITNESS: William H. Everman, that's E-V, like
20 Victor, E-R-M-A-N.

21 THE COURT: Go ahead.

22 - - -

23 DIRECT EXAMINATION

24 - - -

25 BY MR. HUGHES:

EVERMAN - DIRECT

1 Q. Please be seated, Mr. Everman.

2 A. Thanks.

3 Q. Mr. Everman, please tell the ladies and gentlemen of
4 the jury how you are so employed.

5 A. I'm a private investigator. I'm licensed in
6 Pennsylvania and in New Jersey, and I was engaged by
7 Mr. Hughes.

8 Q. And for how long have you been a private
9 investigator?

10 A. I've been an investigator since -- well, I've worked
11 in the investigative field since June of 1988. I was licensed
12 as a private investigator in Pennsylvania in 1992.

13 Q. Mr. Everman, please take a look at the screen in
14 front of you. Do you recognize the cover page?

15 A. I do.

16 Q. What is that?

17 A. It's a collection of images that were taken from the
18 Instagram account of Bionickhaz, which I understand from
19 Mr. Blanding's counsel is Mr. Blanding's Instagram account.

20 Q. Great. I ask that this be presented now to the jury
21 and we'll go through it just quickly. Please take a look at
22 the next page. What do we have here?

23 A. That's the top part of that Instagram account, which
24 kind of gives the identifying information.

25 Q. And this is the main page or the home page, if you

1 will, of Mr. Blanding's Instagram account?

2 A. That is correct.

3 Q. And if we could go to the next slide, this is also
4 another screen capture, if you will, from Mr. Blanding's
5 Instagram account?

6 A. This is one of the series of screen captures from his
7 account, that is correct.

8 Q. And just for all these images, you've confirmed that
9 these are true and accurate screenshots of images that are
10 posted on Mr. Blanding's Instagram account?

11 A. Correct. That was provided with images of these, and
12 then I went to his account and went through and verified that
13 they exist on his account as it is today.

14 Q. Fantastic. Moving along to the next one.

15 A. Yes, also.

16 Q. Next.

17 A. Correct, yes.

18 Q. Next.

19 A. Also included, yes. Yes.

20 Q. Next.

21 A. Also.

22 Q. Next.

23 A. Yes.

24 Q. You can just go through them all.

25 A. Yeah. These were all on his Instagram account.

EVERMAN - DIRECT

1 Q. Okay. I think there's just a couple more, if you
2 could just go through them all. Okay. Thanks very much.
3 Cross-examination.

4 MR. WITHERELL: No.

5 MR. HUGHES: Your Honor, that's all from this
6 witness.

7 THE COURT: Cross-examine. Do you have any
8 questions?

9 MR. WITHERELL: I don't, Judge.

10 THE COURT: Are you finished direct?

11 MR. HUGHES: Yes.

12 THE COURT: Any cross-examination, any other defense
13 counsel?

14 MR. MEEHAN: No, Your Honor. Thank you.

15 MR. ORTIZ: No, Your Honor.

16 (Witness excused.)

17 THE COURT: Next witness.

18 MR. HUGHES: Defense would call attorney Jason
19 Berger.

20 THE CLERK: Please raise your right hand.

21 (Witness sworn.)

22 THE CLERK: Thank you. Please state your full name
23 and spell your last name for the record.

24 THE WITNESS: Jason Berger, B-E-R-G-E-R.

25 - - -

BERGER - DIRECT

DIRECT EXAMINATION

- - -

BY MR. HUGHES:

Q. Good afternoon, Mr. Beer.

A. Good afternoon.

Q. How are you doing today?

A. Good.

Q. Mr. Berger, do you recognize anyone in the courtroom here today other than me?

A. Yes. Mr. West as well as Mr. Blanding were former clients of mine, clients of mine.

Q. Please tell --

THE COURT: Pull the microphone down and speak right in the microphone, please.

THE WITNESS: Is that better?

BY MR. HUGHES:

Q. Yes. Thank you so much.

Please tell the ladies and gentlemen of the jury in your own words what type of legal work you did for Mr. Blanding, OBH Records, and Mr. West.

A. Sure. I've been an attorney for approximately 15 years. I have an entertainment law practice based out of a law firm here at 6th and Walnut Street. I've been practicing entertainment law probably for a good part of ten years.

I was initially introduced to Mr. Blanding through a

BERGER - DIRECT

1 mutual colleague. I don't recall specifically who that was.
2 At the time, Mr. Blanding was working with Mr. West, who was a
3 pretty well-known hip-hop artist here in the city and beyond.
4 His reputation was, I would classify it as national he was
5 doing a lot of good things in furthering his career.

6 I understood Mr. Blanding to come on in a
7 management-type capacity. I don't think titles or roles were
8 necessarily defined, but he was helping Mr. West not only with
9 his career, but I think more importantly create an
10 infrastructure to what was called OBH Records, and that was a
11 limited liability company at the time that I got involved with
12 them.

13 That was really the start of the representation was
14 to assist them, create this infrastructure for the record
15 label, and to assist Mr. Blanding with a number of transactions
16 in terms of his separate business where that was mostly
17 management of recording artists.

18 Q. What was the name of Mr. Blanding's separate
19 business?

20 A. I think it was BionicOne or BionicOne Entertainment,
21 LLC.

22 Q. And --

23 A. I had formed that entity. Just to contrast, OBH
24 Records was an entity that had been formed when I started
25 working with these gentlemen.

1 Q. Understood. And within the confines of BionicOne
2 Entertainment, what kinds of business activities would
3 Mr. Blanding do in the music business?

4 A. Almost everything. When I first met with them, it
5 was -- it became apparent to me that these guys were very
6 hungry to succeed within the music space. In that regard,
7 Jamaal in particular, we would meet very regularly. He had a
8 lot of questions, and it was how can I help this artist do
9 this, what kind of things could we do as a record company to
10 help promote this project.

11 Q. Sorry to cut you off. So fair to say he would seek
12 legal advice in his role as a manager to --

13 THE COURT: Don't lead the witness.

14 MR. HUGHES: Sorry, Your Honor.

15 BY MR. HUGHES:

16 Q. Please continue.

17 A. He would seek legal and practical advice, and in my
18 role as an attorney, I learned a lot about the process of
19 distributing music and marketing music and things that come
20 with it. He wanted to learn about all that. And to the extent
21 I was able to help him, whether it was working with him in
22 representing him and providing advice with respect to a
23 specific transaction or it may have been giving him general
24 advice or connections, contacts of third parties and
25 third-party companies, the biggest thing that I recall was just

BERGER - DIRECT

1 the hunger, to say it bluntly. He was hungry to learn all this
2 to figure it all out and to try to help his clients and the
3 company succeed in the space.

4 Q. Who were some of his clients?

5 A. From what I recall, there was a young man. I think
6 his name is Shem Adams. He goes by OZ Sparx. He's a young
7 rising artist here in the city. I did a transaction whereby
8 Mr. Blanding, through his company, took on a management role
9 for Mr. -- I think it's Adams. Forgive me if the last name's
10 not correct.

11 In that regard, obviously, the documentation was the
12 first step, but then going back to what I mentioned earlier, it
13 would be a new question almost weekly, if not more frequent.
14 Well, how do we find a distributor for his music? How do we
15 find the right publicist to help spread the word of how good
16 this kid is, for lack of a better term?

17 So it was regular meetings, conversations, in terms
18 of trying to answer the questions and really provide advice,
19 like I said, both legal and practical, to try to help these
20 guys succeed because I love to see that, the desire. I mean,
21 they were doing good work.

22 Q. Now, when you say "these guys," do you mean both OBH
23 Records and Bionickhaz Entertainment and those artists,
24 collectively?

25 A. Yes.

1 Q. Question: Are you familiar with an individual by the
2 name of -- that goes by Mont Brown or Lamont Brown?

3 A. Very much so.

4 Q. Who is that to you?

5 A. Lamont is a gentleman from Southwest Philadelphia.
6 I've probably known Mr. Brown eight years now. I initially met
7 him -- I was representing a band that he was a part of. He was
8 kind of, like, the lead vocalist in a five-piece band which,
9 for hip-hop and urban music, was different. And these
10 gentlemen came up through the ranks, if you will, pretty
11 quickly because it was different. It was innovative. And a
12 lot of people knew Mont, as I call him Mont.

13 Over the years he's taken a back seat in terms of his
14 creativity and has really taken a role in not only uplifting
15 his community, but undertaking management for younger artists,
16 and he's known, I think, pretty universally as one of the
17 better music managers in at least Philadelphia as of now, and
18 I've been his counsel as well as counsel to his clients for the
19 last eight or so years.

20 Q. Thank you. Just so the jury can make the connection,
21 he has tattoos all over his head?

22 A. I'm pretty sure everywhere. That's evolved over the
23 eight years that I've known him, yes.

24 Q. Gotcha. He was here previously.

25 Please take a look at the screen, these Instagram

BERGER - DIRECT

1 slides. I guess this would be D-6, and the main page here,
2 you're familiar with -- are you familiar with Mr. Blanding's
3 Instagram?

4 A. Yes, sir.

5 Q. And do you recognize the home page of the account?

6 A. Yes, sir.

7 Q. Let's move on to the second slide. What do you see
8 here?

9 A. It appears to be a photo from a live performance used
10 in part to promote a record that was released by his artist,
11 the gentleman Mr. Adams that I had referenced before.

12 Q. That's OZ Sparx, right?

13 A. It's hard for me to tell, but it appears to be, yes.

14 Q. Mr. Adams is -- OZ Sparx is the name that Mr. Adams
15 goes by?

16 A. Professional name.

17 Q. Professional name?

18 A. Very rarely anybody in the music business, whether
19 it's hip-hop or urban genre or elsewhere, goes by their regular
20 name. A lot of times the gentlemen or ladies, Instagram
21 handles will reflect their professional name as they use within
22 the business.

23 Q. Thank you. Please go to the next slide. And what do
24 you see here?

25 A. This looks like a repost of a post made by the Fader,

1 which is a very popular media outlet within the music industry
2 in general. And very typical sometimes an article or a release
3 would be posted by an organization like this, and anybody and
4 anybody will then repost it to make the most of that press
5 coverage, if you will.

6 And it looks like this was a play list that now
7 everybody almost uses exclusively to consume music on streaming
8 services where the Fader was promoting one of OZ Sparx's new
9 records, and Mr. Blanding appears to be reposting that to kind
10 of spread the word that, you know, Mr. Sparks is landing on the
11 page of the Fader, which is one of the biggest media outlets
12 within urban music.

13 Q. Thank you. Next slide, please.

14 A. Again I think this is Mr. Blanding just promoting a
15 new record that Sparx had out at the time.

16 Q. Next slide, please.

17 A. This was the promotion of an event. And by the way,
18 Instagram is used in large part by music professionals as a
19 tool for promotion. Everybody's is different. People post
20 personal things on there similar to a Facebook, but in the
21 music business and, in particular, the way things are now,
22 people use this as a commercial tool to help promote, whether
23 it's a song, a live concert, or anything else that sheds the
24 right light on an artist. And it looks like Mr. Blanding was
25 using it for those purposes.

BERGER - DIRECT

1 This is an event that I'm intimately familiar with.
2 My firm, when I helped Mr. Brown start this event, helped
3 gather the community and the resources to be able to pull this
4 event off. It's really, like it says, a kickback. In his
5 mained it was a give-back. He comes from a neighborhood that
6 is tough, to say the least, so once a year he would gather the
7 community resources to put on a block party, you know, that was
8 free to everybody and anybody who wanted to come out.

9 He insisted, through social media posting and
10 otherwise, that there be zero violence, and that was always the
11 case at these events. And he was able to gather resources from
12 the community, banks, businesses, who would contribute and
13 ultimately pull something like this off on an annual basis in
14 the mid of the summer. My firm has sponsored it from year one,
15 and I continue to support Mr. Brown with this event.

16 I believe this year in particular, OZ may have
17 performed at the event, but I know for a fact that Mr. Blanding
18 had supported it. I don't know specifically whether it was a
19 financial contribution or helping Mr. Brown gather resources
20 that it took on an annual basis to make this successful, but he
21 was very much behind it.

22 Q. Would Mr. Blanding have facilitated the participation
23 of his artist?

24 A. Like I said, I don't recall if at this year is the
25 one this flier represents whether Mr. Blanding's artist

1 performed. But to me this was more than just to promote his
2 artist. This was something that was going on in the city that
3 Mr. Brown started that promoted good things, and that was
4 something that these guys got behind when the opportunity
5 presented itself from my experience.

6 Q. Understood. Next slide, please.

7 A. Yeah. It looks like this was promoting
8 Mr. Blanding's artist at a live performance right around the
9 corner at Voltage Lounge.

10 Q. Next slide, please.

11 A. I think this was the promotion of OZ Sparx on an
12 internet radio show that was local.

13 Q. Next slide, please.

14 A. This was directing Mr. Blanding's followers to a
15 specific platform called Sound Cloud that recording artists
16 regularly used to distribute music on a free basis, meaning the
17 subscriber doesn't have to pay a fee similar to what they do
18 with Apple Music or Spotify in order to listen to the music.
19 And it's a very popular platform in today's music ecosystem, if
20 you will.

21 Q. Understood. Thank you. Next slide, please.

22 A. Yeah. I'm not really sure. It would appear that
23 there was perhaps a co-branded sneaker with Mr. Blanding's
24 company. I was not involved in that deal or that transaction.

25 Q. Understood. Next slide, please.

BERGER - DIRECT

1 A. Again, this was promoting the -- what looked like the
2 forthcoming release at the time of one of the artists that were
3 signed and affiliated with the OBH Records record company.

4 Q. Do you recognize the individual to the far left?

5 A. I think it's Mr. Blanding and I think Mr. West in the
6 middle. I'm not sure of the gentleman on the right. If it
7 was -- again, there's a number of hashtags. If the hashtags
8 represent the name of the project that they were promoting, it
9 would have been with another order recording artist that was
10 signed to OBH Records. I only know him by his professional
11 name, Dark Lo.

12 Q. Gotcha. Next slide, please.

13 A. All that I can tell is that this looked like to be
14 perhaps these gentlemen being interviewed by a radio show. I
15 know the real DJ Damage is a DJ who is out in California at one
16 of the biggest radio stations in California, but he's from
17 Philadelphia. So a lot of the artists that are from
18 Philadelphia that travel out to LA, because it is such a hotbed
19 for the music industry, if they know DJ Damage, they usually
20 wind up on his show.

21 The only other individuals I'm familiar with are the
22 gentleman with the hoodie is Mr. Brown that I mentioned to you
23 before. At the time, he was managing an individual from
24 Philadelphia, Thomas Austin, he went by Reco Havoc was his
25 professional name. He's the gentleman in the yellow all the

1 way to the right.

2 Q. Thank you. And next slide, please.

3 A. I'm not sure where this was taken. This was -- you
4 see the backdrop. It says Vydia. This is a company that I
5 introduced Mr. Blanding to. They're actually a client of my
6 firm as well. Very technology focused. I'll call them a
7 distribution company. They provide a variety of services to
8 artists, but the real main butter is to provide an
9 infrastructure or a back end to companies like OBH Records and
10 to Jamaal's company. They give them the ability to distribute
11 music, which is taking a digital audio file and ultimately
12 getting it through the right channels to where it can now be
13 found and consumed on a Spotify or on Apple Music.

14 They also provide a very valuable service where the
15 income that's generated behind the scenes on YouTube, which is
16 a very popular platform not just for music, I think we all
17 probably use it for a variety of things, allows you to monetize
18 those videos. So when you see a music video on YouTube and
19 underneath you see the amount of views, that means something
20 terms of dollars and cents. Most times you need a third party
21 company to be able to liaise with YouTube to collect what's
22 rightfully yours. And they had a number of videos, I recall,
23 when we were working on the infrastructure of their companies,
24 that were unmonetized.

25 So one of the things immediately, when I'm asked to

BERGER - DIRECT

1 kind of do a sweep and to take a look to make sure the
2 infrastructure of a company or companies like this is where it
3 needs to be, I'll identify what are the income streams
4 available and make sure that we're collecting those
5 appropriately. And this was one that I immediately recognized
6 that these guys were not taking advantage of.

7 So to me this is why I do business. To be able to
8 connect a client to another client and allow them to make money
9 together is kind of what I love about what I do, and this is a
10 perfect example.

11 So the gentleman in the middle is a gentleman named
12 Frank. He's my main contact at this company Vydia. The
13 gentleman to the left I know as Poe, very helpful in terms of
14 being a colleague of these gentlemen and helping them in their
15 endeavors to run a music company.

16 Q. Thank you. Next slide, please.

17 A. This looks like --

18 THE COURT: Just wait for the question.

19 THE WITNESS: Sorry.

20 BY MR. HUGHES:

21 Q. What do you see in this slide?

22 A. It appears to be the promotion of a new record that
23 was released by Mr. West on the OBH Records record label
24 through a Sound Cloud account. I can tell by the graphic that
25 it's a Sound Cloud release.

1 Q. And the specific record involved?

2 A. I'm not sure if it's an individual record or if it
3 was a project. Protocol 4 would lead me to believe it was a
4 group of records that was being released by the company mixed
5 and mastered by a gentleman that I'm very familiar with and
6 very close colleagues with.

7 Q. Gotcha. Next slide, please, and what is this.

8 A. That makes sense. It was a release of a project by
9 Mr. West and it was then promoting the release of the project.
10 Project, I mean an album.

11 Q. Project is album?

12 A. Synonymous in terms of how I'm using it.

13 Q. Gotcha. Thank you. Next slide, please.

14 A. Same question?

15 Q. Yes, what do you see here?

16 A. Yeah. It looks like these gentlemen had a meeting at
17 iHeartMedia, which is one of the biggest conglomerates of radio
18 stations in the country. Any time you're promoting music
19 radio, it remains to be a big tool to do that.

20 Q. Where are they located?

21 A. Almost every major market. In Philadelphia, they're
22 located out of City Line Avenue. They own and operate a number
23 of the radio stations that we all listen to, to the extent we
24 still listen terrestrial radio.

25 Q. Gotcha. Are you familiar with -- does iHeartMedia

1 have a location in Los Angeles, California?

2 A. Probably multiple.

3 Q. Gotcha. Next slide. What does this depict?

4 A. From what I recall, these guys put together some kind
5 of black tie event. I don't recall, candidly, the specifics or
6 what the motivation was, but I was out of town or I would have
7 attended. It was, I think, pretty successful from what I
8 recall. I just don't know the particulars.

9 Q. Gotcha. Next slide. What does this depict?

10 A. Same group of gentlemen, the gentlemen behind OBH
11 Records. The gentleman Dark Lo I mentioned before was the
12 artist. They were apparently promoting the new project called
13 Bucket List that was either going to be released or was
14 released at this time.

15 Q. Gotcha. And then the last slide, do you recall what
16 this depicts or do you recall this event?

17 A. No. I'm sorry. I mean, I could tell you what I can
18 see.

19 Q. If you're not familiar with it, that's fine.

20 A. No.

21 Q. So Mr. Blanding and Mr. West, is it fair to say that
22 they are -- they were heavy involved in the music and
23 entertainment industry?

24 A. Yes.

25 Q. And you know this through personal knowledge?

1 A. Yes.

2 Q. Acting in a capacity as an entertainment attorney?

3 A. In part. I'm a fan. I mean, it sounds crazy. I
4 love what I do, primarily because I'm a fan of music and I'm a
5 fan of hip-hop music. And I've known of Mr. West's in
6 particular reputation years before I got involved in my
7 capacity as a lawyer doing business in this field.

8 So I would say in part it's because of my
9 representation of the company as well as Mr. Blanding and his
10 company, of course, but knowledge of them being involved in the
11 business and doing things, putting out music, performing, going
12 on tour, those kind of things was long before I took an oath to
13 be a lawyer.

14 Q. Understood. Thank you so much.

15 THE COURT: Any other defense counsel have any
16 questions?

17 MR. GOLDMAN: No, sir.

18 THE COURT: Cross-examine.

19 MR. WITHERELL: Sure.

20 - - -

21 CROSS-EXAMINATION

22 - - -

23 BY MR. WITHERELL:

24 Q. How are you today?

25 A. Good.

1 Q. I just have a few questions, I think.

2 A. Cold.

3 Q. Excuse me?

4 A. Cold I said.

5 Q. Yes, it is cold outside.

6 When did you first meet Mr. Blanding?

7 A. I'd be guessing if I had to narrow it down to a date.

8 Q. Let's start with something easier. When did you
9 start representing Mr. Blanding in a professional capacity?

10 A. Same answer. If I had to give you a guesstimate, two
11 and a half years ago.

12 Q. Obviously, there would be retainers or something that
13 your firm was hired, correct?

14 A. Retainer?

15 Q. You were hired by Mr. Blanding at some point?

16 A. Yes, sir. An engagement letter, absolutely.

17 Q. And you don't know --

18 MR. HUGHES: Your Honor, may I give the witness some
19 water?

20 THE COURT: Do you want a glass of water?

21 THE WITNESS: I would love that. Thank you, Your
22 Honor.

23 I could give you a more approximate date had I had an
24 opportunity to review that engagement letter.

25 BY MR. WITHERELL:

1 Q. I'm not going to hold you to a specific date. You're
2 saying two and a half years ago?

3 A. Approximately.

4 Q. And it was just Mr. Blanding who was your client or
5 you actually were an attorney representing Mr. West?

6 A. I don't believe I actually represented Mr. West
7 individually. I believe that I provided counsel to OBH
8 Records, LLC, which my understanding was an entity that was
9 owned by Mr. West.

10 Q. I just want to be clear about this. Mr. Blanding
11 approaches you. He actually hires you, right? There's an
12 engagement letter. He pays you money for your services?

13 A. Yes, sir.

14 Q. Does OBH Records, the entity, hire you?

15 A. Yes.

16 Q. So you are hired by both OBH Records as well as, I
17 think you called it Bionic Entertainment?

18 A. Well, I formed Bionic Entertainment, so my client at
19 the engagement outset was Mr. Blanding, who then asked me to
20 help him form an entity to be able to do business, I guess, the
21 right way in the music industry.

22 Q. And your representation as the attorney for
23 Mr. Blanding was to do what exactly, to form the entity?

24 A. From the outset, we formed an LLC to be the vehicle
25 for him to use for these various transactions. Then it was

1 mostly putting deals together. For example, we mentioned
2 Mr. Sparx. We had to engage -- have Mr. Sparx engage the
3 entity as his manager and Mr. Blanding, being the member of
4 that entity, as his manager.

5 Q. So you were involved in that deal, too, signing that
6 artist?

7 A. I prepared the agreement.

8 Q. So you are fully -- you fully understand all the
9 workings of the company that you helped create as an attorney?

10 A. I don't think I could say that.

11 Q. Are you prepared to talk about their financial
12 capabilities?

13 A. No.

14 Q. You don't know how much Bionic Entertainment makes?

15 A. With the exception of the deals that I was involved
16 in on their counsel, as their counsel, no.

17 Q. Okay.

18 A. So to take this question back, am I knowledgeable
19 about some financial dealings to the extent I was involved in
20 those dealings, absolutely.

21 Q. Sure. What dealings would those be?

22 A. The contract, for example, with that company Vydia
23 that I identified a little bit earlier.

24 Q. Okay. That's ones. What else?

25 A. Mr. Adams' agreement was specific, although that was

1 not a transaction that money was exchanged at the closing of.

2 Q. All right.

3 A. Perhaps the company's engagement of a publicist.

4 Q. Any other transactions?

5 A. Not that sticks out.

6 Q. Out of those three transactions, how much money did
7 that company make out of those three transactions?

8 A. Which company?

9 Q. Let's start with Bionic Entertainment.

10 A. So from the management agreement, again, there was no
11 money exchanged at closing either way. So what happened after
12 that and what was earned, I have no knowledge of.

13 Q. So that's zero for one of them?

14 A. Correct.

15 Q. Let's go to the second one.

16 A. There was an advance provided by the company Vydia.

17 Q. How much was that?

18 A. I believe my best recollection is maybe \$20,000.

19 Q. And that was \$20,000 provided directly to Jamaal
20 Blanding?

21 A. I believe that was an OBH Records, LLC, was the
22 contracting party with Vydia.

23 Q. So \$20,000 was paid directly to OBH Records?

24 A. The documents that I reviewed and walked these guys
25 through provided that. Did I see the money exchange hands or

1 did I see a bank account with a debit of 20? No.

2 Q. I'm confused. You're their attorney. You're the one
3 representing them through this process, right?

4 A. Correct.

5 Q. Isn't it kind of your job to make sure they get paid?

6 A. No.

7 Q. No?

8 A. Uh-uh.

9 Q. Okay. But you were involved in the drafting of these
10 contracts?

11 A. The review and revisions of that contract in
12 particular. I don't want to speak about contracts that you may
13 be referring to.

14 Q. I'm just referring to what you did.

15 A. The contract with Vydia would have come in. I would
16 have reviewed it. I would have made revisions. I would have
17 negotiated certain points with their lawyer. And usually when
18 the point came where the parties were in agreement with the
19 terms, I would facilitate the signatures on the contract, and
20 that's usually where my role would end.

21 Q. Did you facilitate the signatures on the contract?

22 A. It was done electronically with their counsel through
23 a program called DocuSign.

24 Q. As far as you know, that contract was done, but you
25 don't know if they actually received money?

1 A. Correct. I presume they did because I probably would
2 have been told about it, as their lawyer, if there was a
3 problem and they didn't get paid.

4 Q. Anything else? Any other monetary money made by
5 either OBH Records or --

6 A. That same relationship would have spun off income to
7 them on a monthly basis as well through the monetization of the
8 YouTube, as I mentioned earlier. I did not have access to
9 their account, their dashboard, and don't know what that
10 specific number would have been on a rolling basis.

11 Q. The only thing you know is you had got contracts that
12 were supposed to give them \$20,000, OBH Records?

13 A. A contract.

14 Q. A contract.

15 A. With Vydia.

16 Q. With Vydia.

17 A. That there was an advance due at the signing of that
18 contract from what I recall to be in that ballpark. Don't hold
19 me to an exact dollar figure.

20 Q. But you're not aware of that money or any other money
21 they may have gotten from that?

22 MR. HUGHES: Objection.

23 THE COURT: Overruled.

24 THE WITNESS: I'm presuming they got it. Otherwise,
25 they would have called, hey, Jason, we never got payed. Can

1 you reach out and make sure we do?

2 BY MR. WITHERELL:

3 Q. That never happened?

4 A. That never happened.

5 Q. After that, you don't know how much money they were
6 making on that video deal?

7 A. Specifically, no.

8 Q. So that's two we talked about. Any other financial
9 money coming in the way of Bionic Entertainment or OBH Records
10 that you are aware of?

11 A. Coming in you said?

12 Q. Yeah, that they're getting money from.

13 A. Not off the top of my head, no.

14 Q. Not off the top of my head, that kind of reminds me
15 of your answers to some of the questions.

16 MR. HUGHES: Objection to Mr. Everett Witherell's
17 testimony.

18 THE COURT: Rephrase the question, please.

19 MR. WITHERELL: Sure.

20 BY MR. WITHERELL:

21 Q. When did Mr. Hughes contact you to testify here
22 today?

23 THE COURT: Talk closer to the microphone.

24 MR. HUGHES: Objection. Relevance.

25 THE COURT: Can you answer the question?

1 THE WITNESS: Two weeks ago, maybe three weeks ago.

2 BY MR. WITHERELL:

3 Q. When he contacted you, did he provide you this slide
4 show?

5 A. No.

6 Q. When did you see that slide show?

7 A. About ten minutes before I walked into the courtroom.

8 Q. Oh, you've never seen this?

9 A. I've seen the Instagram account. I have not seen it
10 presented in the way that was presented to me on the screen
11 during examination.

12 Q. When you say you've seen the Instagram account, I'm
13 just guessing that you haven't, like, gone through all of his
14 Instagram accounts and, like, spent a great deal of time
15 looking at every photo. That's not something you would do.

16 A. Actually, I would and I have.

17 Q. So you've seen all these previously?

18 A. Probably not all of them, but a good chunk of them.
19 I mean, this is what I do for a living. So if I have a client
20 and I'm involved in these matters -- like I said to the jury
21 earlier, Instagram is a huge promotional tool. So I use it for
22 my business. I use it to similar ways that Mr. Blanding had
23 used it here. If I have a client that's releasing a record on
24 Friday, I usually post things like that. And being involved in
25 that not only industry but culture, it's reviewed all the time.

1 Q. Let me ask you this, because a lot of times in your
2 questions, when you were asked to review this thing that you
3 saw ten minutes ago, you said I think, I'm not sure, all I can
4 say, and words to that effect.

5 All these events that are depicted, the promotions,
6 you weren't an attorney helping to promote or do these specific
7 events, right?

8 A. Sure I was.

9 Q. I thought you talked about three transactions. Tell
10 me -- let's go back. Can we go back a couple?

11 A. Let's talk about most of them, if that's okay.

12 THE COURT: No, no. Just answer the question.

13 THE WITNESS: Sure.

14 BY MR. WITHERELL:

15 Q. Can we go to the black tie one? You said you weren't
16 there for that, right?

17 A. Yeah.

18 Q. You had no legal significance as an attorney
19 promoting that?

20 A. Nope.

21 Q. Let's go back one. This is just a promotion of some
22 artist; is that correct? Am I correct this is the promotion of
23 an artist?

24 A. I wouldn't characterize it that way.

25 Q. What would you characterize it?

1 A. It's the promotion of these gentleman in the role
2 that they serve in the music business and them saying, hey, I'm
3 at a big meeting with a big radio company and we're all from
4 Philadelphia, and that's what people do when they're from the
5 same community.

6 Q. Your legal role as an attorney in this one was?

7 A. Zero. If you're asking did I call iHeartMedia and
8 set up this meeting for these gentlemen, no. Were there any
9 contracts that came before or after this meeting, no. But I'm
10 aware of this taking place.

11 Q. You're aware of this taking place by looking at the
12 Instagram, right? You had no other relation with this event
13 whatever it may to be, as an attorney?

14 MR. MEEHAN: Judge, I'm going to object. That's
15 about three different questions now.

16 THE COURT: Break it up.

17 BY MR. WITHERELL:

18 Q. As an attorney, you had no dealings with this
19 particular post, right?

20 A. No, I had no dealings with that post. That's
21 correct. Did I know that these type of meetings took place
22 when they took place? Sure.

23 THE COURT: How do you know that?

24 THE WITNESS: I was kept in the loop on almost all
25 the business.

1 BY MR. WITHERELL:

2 Q. So everything that you're testifying to is coming
3 through Mr. Blanding telling you?

4 A. I wouldn't say that.

5 Q. Then how do you know?

6 A. Either firsthand knowledge because I was involved in
7 it.

8 Q. Okay.

9 A. Or it would be a conversation, hey, we're going to an
10 iHeart meeting in California. Any tips? Do you know anybody
11 there that I can drop a name? Those kinds of discussions.

12 Q. And those would be the discussions with the
13 defendant, right?

14 A. With Mr. Blanding.

15 Q. Let's go back another one. This is a promotion of an
16 album; is that correct?

17 A. Yes.

18 Q. Did you have any -- as an attorney, did you do
19 anything for the promotion of this album?

20 A. I believe just the deal that gave them the platform
21 to release it.

22 Q. What deal would that be? That's the Vydia deal?

23 A. Yes.

24 Q. Let's go back one more. How about this one?

25 A. Other than the gentleman being a very close colleague

1 who mixed and mastered the record, I didn't have any part of
2 that release as a lawyer.

3 Q. As a lawyer, right? What you basically have done
4 today, when you saw these ten minutes ago, is these are things
5 that are on Jamaal Blanding's Instagram, and you're giving your
6 opinion as to what they mean?

7 MR. HUGHES: Objection to Mr. Witherell's
8 characterization.

9 THE COURT: Overruled.

10 BY MR. WITHERELL:

11 Q. You're giving your opinion as to what they mean?

12 A. Yeah. If I didn't have a direct involvement in
13 anything depicted in these posts, absolutely my interpretation
14 of what they depict.

15 Q. Let me just ask you, which ones did you have a direct
16 involvement?

17 A. You want to start from the first one? I'll tell you.

18 Q. You went through a bunch. We can go through a few.
19 But do you remember, after looking at them, do you know which
20 ones you've had direct?

21 A. Not specifically without looking at them.

22 Q. I'm going to sit here -- you saw this ten minutes
23 ago?

24 A. Correct.

25 Q. Mr. Hughes went through that with you?

1 MR. HUGHES: Objection, Your Honor. There's 19
2 slides.

3 THE COURT: Overruled.

4 BY MR. WITHERELL:

5 Q. Mr. Hughes went through it with you. Do you know
6 which ones you were directly involved in?

7 MR. HUGHES: Objection, Your Honor. Mr. Witherell
8 needs to display them.

9 THE COURT: Overruled.

10 Do you understand the question?

11 THE WITNESS: I don't.

12 THE COURT: Rephrase the question, please.

13 Talk closer into the microphone.

14 THE WITNESS: Sorry.

15 BY MR. WITHERELL:

16 Q. We have 19 slides here of Instagram posts by Jamaal
17 Blanding. We can agree on that, right?

18 A. I didn't count them, but sure.

19 Q. As an attorney, which ones were you involved in and
20 had direct firsthand knowledge of?

21 A. I'd have to go through them one by one and let you
22 know whether I had any involvement with it.

23 Q. Okay. Let's go somewhere else.

24 Sir, you had mentioned, did you set up any dealings
25 for Mr. Blanding to go to California at any time during your

1 representation?

2 A. I don't recall.

3 Q. You don't remember if you did that?

4 A. Uh-uh. It very well may, something like the one we
5 looked at with the gentleman DJ Damage, I may have helped
6 facilitate things like that. I just don't specifically recall
7 as I sit here.

8 Q. As you sit here today, you have no knowledge of ever
9 knowing about Mr. Blanding going to a meeting in California for
10 any reason?

11 A. I didn't say that. I'm certainly aware that they
12 made trips to California to pursue things, to promote their
13 artists, absolutely.

14 Q. When you say "they," who are you referring to?

15 A. I should say Mr. Blanding. That's really my direct
16 contact.

17 Q. And you're saying that Mr. Blanding -- you knew that
18 only because Mr. Blanding told you he was going to California?

19 A. And things like we just looked at. Again, these are
20 also clients of mine. In terms of Mr. Brown, in particular, is
21 a long-time client. So if I were to speak to Mr. Brown, I
22 could learn that way. If I were to be on Instagram on my lunch
23 break and see a post like that, I could learn that way.

24 Q. I guess that's my whole point. You can learn a lot
25 of things from hearing it from other people. Like, Mr. Brown

1 was here and he testified. My question is what you know and
2 what you're aware of.

3 Are you aware of Mr. Blanding going to California for
4 any reason?

5 A. Yes.

6 Q. Tell me about that. When did that happen?

7 A. I don't recall a date. I think it was multiple times
8 throughout the course of my representation of them.

9 Q. Do you remember who he was having meetings with?

10 A. Not in particular.

11 Q. Not one time?

12 A. No.

13 Q. Not one company?

14 A. No.

15 Q. Not one studio?

16 A. Nope.

17 MR. WITHERELL: Thank you.

18 THE COURT: Any redirect?

19 MR. HUGHES: Yes, Your Honor.

20 - - -

21 REDIRECT EXAMINATION

22 - - -

23 BY MR. HUGHES:

24 Q. Mr. Berger, Mr. Witherell was asking you, making a
25 point that you only looked at these particular slides to use,

1 his words, ten minutes ago, and please go to the first slide
2 in.

3 THE COURT: No, no. We're not going to repeat them.
4 Redirect is not to repeat what happened on direct.

5 BY MR. HUGHES:

6 Q. Mr. Berger's Instagram handle is on these slides, and
7 Mr. Witherell tried to imply he's never seen them before.

8 THE COURT: We're not going to go through the slides.

9 MR. HUGHES: Yes, Your Honor.

10 BY MR. HUGHES:

11 Q. Mr. Berger, please take a look at the first slide.
12 Do you see your Instagram handle on there?

13 A. Yes.

14 Q. As a follower of this account?

15 A. Yes, sir.

16 Q. Take a look at that one, this one here. Mr. Berger,
17 your Instagram handle is on there, right?

18 A. Yes. I would have saw this post, and you hit "like"
19 any time you want to, I guess, like a picture on Instagram.

20 Q. So you've seen these posts in real time over the
21 years as they were posted?

22 A. Yes.

23 Q. Not ten minutes ago in the hallway?

24 A. No. If I could clarify, I think the question was the
25 presentation in terms of them being annotated with the

SPECIAL AGENT SIMPSON - CROSS

1 lettering next to them. That slide show, this slide show, I
2 saw ten minutes before I took the stand. I've followed
3 Mr. Blanding from the time he became a client of mine on
4 Instagram.

5 MR. HUGHES: Thank you. No further questions.

6 THE COURT: Any recross?

7 MR. WITHERELL: No, Judge.

8 THE COURT: Okay. Thank you.

9 MR. HUGHES: Thank you, Your Honor.

10 THE COURT: Have the agent come back on the stand.
11 We'll resume cross-examination.

12 (Witness excused.)

13 MR. GOLDMAN: Thank you, Your Honor.

14 THE COURT: Go ahead.

15 Agent, just state your name for the record.

16 THE WITNESS: Special Agent Charles Simpson.

17 THE COURT: Go ahead.

18 - - -

19 CROSS-EXAMINATION

20 - - -

21 BY MR. GOLDMAN:

22 Q. We heard an hour of it. I don't want to go through
23 an hour of it. You don't either. Let me ask you this, just so
24 you have the backdrop.

25 So back in October of 2018, you decided this

1 investigation comes down and you go to arrest people, correct?

2 A. Correct.

3 Q. And you arrested a bunch of people. My client took
4 off, left Philadelphia, and headed out west, correct?

5 A. Correct.

6 Q. Okay. And then you go get what's called a fugitive
7 warrant, which says you can arrest him based upon an indictment
8 that was returned back in Philadelphia, correct, basically?

9 A. I mean, that's not really the mechanism.
10 Essentially, we had a warrant for his arrest, yes.

11 Q. You had a warrant?

12 A. Absolutely. After the indictment, the Court issues a
13 warrant for his arrest.

14 Q. And that entitles you to go out, if you find the guy,
15 grab the guy, correct?

16 A. Correct.

17 Q. And the indictment is something like in this case, I
18 don't, know 40 pages long or whatever, correct?

19 A. I would imagine so, yeah.

20 Q. Right. So over time you track down my client, you
21 found him in the LA area, and you made a physical arrest on the
22 streets of Los Angeles, correct?

23 A. It wasn't on the street. It was in, like, a
24 residential complex, but yes.

25 Q. I'm not trying to pin you down.

1 A. I get what you mean. You meant it, like,
2 metaphorically streets.

3 Q. Right?

4 A. Got it.

5 Q. So you arrest him, and then that's where a process
6 takes place, correct?

7 A. Correct.

8 Q. And the procedural process in a federal criminal case
9 is the following: You take them somewhere to book them?

10 A. Correct.

11 Q. And that was back at the -- you took him to LA
12 Homicide Division, correct?

13 A. Correct.

14 Q. You take biographical information?

15 A. Correct.

16 Q. You take prints from him?

17 A. Correct. We didn't do that there, but if we had the
18 facilities to do that, we would have.

19 Q. Right. But now that he's in custody, you can't
20 question him until you read and he waives the Miranda rights,
21 correct?

22 A. That's correct.

23 Q. From the time that you arrested him in the streets of
24 LA until the time it's picked up by this video, there's no
25 questioning permitted between you guys and my client, correct?

1 A. We did not question him. We talked to him and tried
2 to make him feel comfortable, you know, but we did not question
3 him on the way.

4 Q. I agree. I'm with you with that. I'm just going
5 through this process. So where we pick up on the video is
6 finally -- well, first of all, you got to read him his Miranda
7 rights, which you did.

8 A. Uh-huh.

9 Q. My client had no problem agreeing to waive his
10 Miranda rights agreeing to speak with you without any attorney
11 there, correct?

12 A. That is correct.

13 Q. If he wanted to have an attorney there, he could have
14 had not me from Philadelphia. He could have had somebody from
15 LA appointed to represent him?

16 A. Absolutely.

17 Q. You would have stopped?

18 A. Absolutely.

19 Q. He could have said, I don't have a problem with that,
20 I don't need a lawyer, I'll talk to you, correct?

21 A. Basically, yes.

22 Q. At no point in time during that interview do you say
23 to my client, Mr. Gadson, the indictment in this case charges
24 you with the following. You never did that, correct?

25 A. No.

1 Q. Right. And so as you're asking him these questions,
2 he knows, basically from your discussions, that something
3 dealing with some people that he dealt with in Philadelphia
4 have been arrested, and now he's wanted on some sort of federal
5 charge stemming from some of that relationship, correct?

6 A. Correct, yeah. I mean, a lot of those -- correct.

7 Q. You don't say to my client that we're going to allege
8 later in front of a jury that you're involved in meth. You
9 didn't tell him that on the tape, correct?

10 A. No, I did not tell him that.

11 Q. You didn't tell him that you're going to charge him
12 with anything dealing with crack-cocaine, correct?

13 A. No.

14 Q. Or cocaine?

15 A. No.

16 Q. Or methamphetamine?

17 A. No.

18 Q. Or marijuana?

19 A. No.

20 Q. So you started to get on a roll with him. You know
21 what I mean by a roll? Part of your training -- you're nice
22 guys. I'll give you that. But what we see in these tapes is
23 we see that part of the process of being a good agent is to
24 develop a good relationship with somebody during the interview,
25 an hour-long interview, to have the guy rolling with you, have

1 the guy establish some sort of a rapport between the two of
2 you, correct?

3 A. I think rapport is important.

4 Q. You had that going, didn't you?

5 A. To an extent.

6 Q. As a matter of fact, at no time did my client ever
7 have any hesitation to say that's it, I don't want to say
8 anything else, get me a lawyer. He never did that, right?

9 A. No.

10 Q. So he had no problem in answering any questions that
11 he put to you, correct?

12 A. He had no problem talking to us. I think there were
13 various questions that we asked him where he held back the
14 truth and didn't feel comfortable telling the truth, but he had
15 no problem talking to us. I would definitely agree with that.

16 Q. Holding back the truth as you see it, correct?

17 A. Absolutely.

18 Q. As you see it. You're not the jury in this case,
19 correct?

20 A. No, I'm not.

21 Q. Now, if there's any point in time where you felt that
22 he was holding back the truth, you talked to him for an hour,
23 you could have talked to him longer, correct?

24 A. Yes.

25 Q. And so if you thought he was holding back on the

1 truth, at any point in time you could have continued to press
2 him on any of those issues, which you now say you, Agent
3 Simpson, have that belief, correct?

4 A. I could have. You know, I don't think I would have
5 done that, but I could have, yes.

6 Q. And he continued to answer the questions. And, for
7 example, you threw at him meth, and my client says, I ain't
8 have nothing to do with that, words to that effect, correct?
9 And he explains why and I'm not going to belabor the point.

10 A. Yes, he does.

11 Q. Correct, he did that? And then after we have that
12 give and take between you and my client on meth, you guys
13 decide, okay, that's enough on meth, I'm going to go in another
14 area. You guys were controlling the subject matter, correct?

15 A. We tried to control the flow of the conversation, but
16 in a natural way, yes.

17 Q. For example, another time when you talked to him
18 about Taz, Mr. Stewart, who was here last week, you asked him
19 questions about Taz. My client says to you, yeah, I knew Taz.
20 I knew Mr. Robbie Johnson, right?

21 A. He does say that, yes.

22 Q. Then you asked my client questions about, well, what
23 did you do with Taz? You delivered drugs to him, didn't you?
24 My client says no. He denied it emphatically, right?

25 A. Correct.

1 Q. And you guys say to him, well, we were watching you,
2 correct?

3 A. Correct.

4 Q. From what I see in this transcript, my client
5 emphatically says, that I dealt with Taz, that's an absolute
6 lie. That's an exact quote. That's an absolute lie. Do you
7 agree with that, words to that effect?

8 A. To that effect, yeah. I don't remember the quote,
9 but to that effect, yes, he denied dealing with Taz.

10 Q. Then you tried a play. You know what a play is. You
11 said to him at that point that, yeah, but it's you and Agent
12 Becker at that time, we saw you, we saw you. Now, you and
13 Agent Becker obviously never saw that, correct?

14 A. Yeah, we use "we" a little bit. We, law enforcement.

15 Q. Okay. Fine. And he said to you, no way, right?

16 A. He did say no way.

17 Q. He said no way. He says, as a matter of fact, he
18 took that to mean that, in fact, you're telling him that you
19 got that on tape. He said, you know, bring it to me and let me
20 see it, and I'll eat popcorn and watch it, correct?

21 A. Correct, yeah.

22 Q. Because he said to you he didn't do that, right?

23 A. Correct.

24 Q. And so you made that play to him suggesting that you
25 were watching, he denied that, he challenged you to, you know,

1 bring on the photos or bring on the videos, and then you went
2 off that subject and you went onto something else, correct?

3 A. Right.

4 Q. And what's interesting here is at no time, an hour
5 without an attorney, did you ever say to my client, when he
6 doesn't even know what he's being charged with, did you ever
7 say to him, hey, Bras, explain to us what drug were you dealing
8 in 2017 and 2018? You never asked him that question, did you?

9 A. No.

10 Q. He was all yours at that point in time. You could
11 have asked were you dealing crack-cocaine?

12 THE COURT: Okay. Mr. Goldman, that is
13 argumentative. You can ask him what he did say and what he
14 didn't say, but not what he could have done or should have
15 done. That's argument.

16 BY MR. GOLDMAN:

17 Q. But you didn't do it as far as any of the drugs that
18 are alleged in this indictment, did you? You didn't do it?

19 A. Not to my recollection. Honestly, there's some parts
20 to this that aren't heard today, but not to my recollection did
21 I specifically ask those questions.

22 Q. And you heard my opening. He contends that he was
23 involved with marijuana.

24 THE COURT: No, no. I said this before. You can't
25 relate to something you said in the courtroom.

1 BY MR. GOLDMAN:

2 Q. Today we spent a lot of time showing, and Special
3 Agent Becker acknowledged, that people involved with this group
4 were dealing marijuana. Do you remember Agent Becker's
5 acknowledgment in that regard?

6 A. I do remember that.

7 Q. You didn't ask my client, did you, during this
8 interview, were you involved in marijuana during this time
9 period?

10 A. I did not ask him that question.

11 Q. Right. And you heard my client say to you that I
12 accept the consequences of what I do. You heard him say that,
13 did you not?

14 A. Yeah, he did say that.

15 Q. So you didn't ask him, well, what was it that you
16 did, did you?

17 A. Not at that moment, no. I mean, there was some
18 conversation about some of the things he had done throughout
19 the interview, but, no, I didn't respond to that by saying what
20 are you accepting the consequences to, no, I did not.

21 Q. He was prepared to go down for what he did, but not
22 go down for what he didn't do, correct?

23 MR. WITHERELL: Objection.

24 THE WITNESS: I don't remember him saying that.

25 BY MR. GOLDMAN:

1 Q. He said that I will accept the consequences of my
2 actions, did he not? It's right in the transcript.

3 A. Yes. That part, yes.

4 MR. GOLDMAN: Thank you.

5 THE COURT: Anyone else?

6 MR. ORTIZ: I didn't cross, but we're still at cross.
7 Over the break, I have just a couple of questions.

8 THE COURT: Go ahead.

9 - - -

10 CROSS-EXAMINATION

11 - - -

12 BY MR. ORTIZ:

13 Q. Agent, I noticed and it struck me, it hadn't struck
14 me before, you seem to have known about Mr. Gadson selling
15 T-shirts, correct?

16 A. Yes.

17 Q. So you actually specifically asked him about that,
18 correct?

19 A. That's correct.

20 Q. Was that, like, merchandise that he was selling on
21 the block or in the area?

22 A. Yeah.

23 Q. So was it, like, OBH merchandise, like the T-shirts
24 that he wouldn't sell to you?

25 A. I think so. Special Agent Becker, that conversation

1 in the interview, Special Agent Becker was -- I was with him
2 that day, but he was actually the one who drove by when he was
3 selling the T-shirts. But I would feel comfortable saying they
4 were OBH T-shirts.

5 Q. That's what struck me. So he was actually out there,
6 he said, I think almost every day or I'm out there selling
7 these T-shirts, correct?

8 A. Does he say that in the interview?

9 Q. I actually think he said I'm out there selling the
10 T-shirts every day.

11 A. Okay.

12 Q. I'm sorry it's you, but then the agent goes through
13 with him -- you're the one that presented the video, so I have
14 to ask you.

15 A. I know.

16 Q. He goes through this whole banter, so clearly you
17 guys observed saw Mr. Gadson out there selling the merchandise,
18 right?

19 A. Yeah. We talked about it in the interview. As part
20 of arresting people, we were making sure we were trying to know
21 where they were in advance of that. And we were in the
22 neighborhood the day -- I think it was the day or two before,
23 and Special Agent Becker saw him out there on the block.

24 Q. So he's selling OBH gear. He's selling the merch,
25 right?

SPECIAL AGENT SHUTE - DIRECT ON VOIR DIRE

1 A. That is what Agent Becker saw, yes.

2 MR. ORTIZ: No further questions.

3 THE COURT: Anyone else?

4 I think that completes the testimony.

5 THE WITNESS: Thanks, Your Honor.

6 (Witness excused.)

7 THE COURT: Next witness.

8 MR. WITHERELL: Special Agent Bill Shute.

9 THE COURT: Okay. Come right up, please.

10 THE CLERK: Please raise your right hand.

11 (Witness sworn.)

12 THE CLERK: Thank you. Please state your full name
13 and spell your last name for the record.

14 THE WITNESS: Yes, William Shute, S-H-U-T-E.

15 - - -

16 DIRECT EXAMINATION ON VOIR DIRE

17 - - -

18 BY MR. WITHERELL:

19 Q. Good afternoon, Special Agent. How are you?

20 A. Good afternoon.

21 Q. I think you already answered it, but could you please
22 just tell us who you are and where you work?

23 A. Yeah. I'm Special Agent William Shute of FBI.

24 Q. And how long have you been with the FBI?

25 A. I've been with the FBI about 23 years.

1 Q. Tell us a little bit about the training you received
2 to become an FBI agent.

3 A. Sure. I came in the FBI 1996 in a civilian capacity,
4 worked in an investigative job for approximately four years.
5 Then in the year 2000, went back to the FBI academy as a
6 special agent, came out and worked on the Violent Crimes
7 Fugitive Task Force here in Philadelphia for many years working
8 primarily violent crimes, fugitive cases, basically locating
9 people that didn't want to be found. Did a short stint on a
10 narcotics squad, also white collar crime, but eventually came
11 back to the Violent Crime Squad.

12 Q. What unit are you currently assigned to?

13 A. I'm currently assigned to FBI headquarters in
14 Washington, DC, to a unit known as CAST. It stands for
15 Cellular Analysis Survey Team.

16 Q. How long have you been assigned to CAST?

17 A. I've been assigned to CAST since approximately the
18 year 2009. The unit officially became a unit in 2012, but I
19 was assigned there to help start the unit and create it.

20 Q. Could you just tell us what CAST is and why it
21 exists?

22 A. Sure. CAST is the FBI's answer to providing expert
23 investigative assistance and expert testimony in the realm of
24 cellular analysis. So essentially what we do is we take call
25 detail records generated as a result of your phone usage, and

1 we analyze those records and then depict those records onto a
2 mapping platform.

3 So we essentially take call detail records, which
4 really don't look too different from your cell phone bill at
5 the end of the month, it has all the same data in it, rows and
6 columns of data, except call detail records have one element
7 different than what you may be used to, and they have your
8 actual cell site that you used at the inception of the call and
9 the cell site and sector of the call at the termination of the
10 call. So, essentially, what cell site and the location of
11 where you were at the moment that you used the call and
12 terminated the call.

13 Call detail records, what we do with CAST, is we
14 analyze those records and then place them geographically to
15 show where a person was when they used their cellular
16 telephone.

17 Q. Can you describe the training you received in this
18 regard as a CAST agent?

19 A. Sure. Many hours of training over the years. Going
20 back to our original CAST certification course, I had been
21 already working in this field and sort of developing it from
22 the year 2005 to 2010. It was a lot of on-the-job training and
23 experience because, essentially, any time we were looking for
24 someone that didn't want to be found, I would analyze their
25 call detail records in order to find them. That's the

1 practical experience which totals thousands and thousands of
2 hours.

3 But the actual training that we did that we put
4 together over a period of time, which we now know as CAST
5 certification, involves cellular technology training, radio
6 frequency theory, training from all the major cellular
7 providers: T-Mobile, Sprint, Verizon, AT&T. We get an entire
8 week where they come in. They present to us. We interact with
9 them via presentations, questions and answers.

10 Then we do what's called drive test training, and
11 drive test training is sort of the computerized version of the
12 old Verizon "Can you hear me now?" commercial, if you remember
13 that commercial before the guy jumped to Sprint. He basically
14 holds his phone and says, can you hear me now? And walks two
15 steps and says, can you hear me now?

16 Drive test training or drive testing is very similar
17 to that. It's taking a cell phone or a scanning device,
18 hooking it up to computer software, and then every second or
19 two obtaining a waypoint with a latitude and longitude and the
20 actual information as to what cell site you're on at that
21 moment. Over a period of time, you continue to drive roads and
22 move around with this equipment. It can help you then map the
23 actual geographical breadth of a cell site. So in doing so, we
24 use the same equipment that the cellular providers use in order
25 to optimize and maintain their network?

1 And then finally, there's a lot of training within
2 courtroom testimony and preparation of report writing. So
3 that's sort of the long training that we go through. That's
4 over a period of four weeks, but there's a lot of actual
5 courses before that. We have a basic cellular analysis course,
6 an advanced cellular analysis course, a geolocating course
7 where we go out on the street and locate each other using
8 records and phone equipment.

9 So there's a lot that goes into it. Then we have a
10 yearly recertification, which we've had every year since the
11 unit started in 2012. So many, many, probably well over a
12 thousand hours of training at this point.

13 Q. Does this training include any tests or exams?

14 A. Yes. CAST certification always includes testing, and
15 you have to obviously pass in order to move forward.

16 Q. Do you provide any training in this area?

17 A. Yes. I've been training for years now. I basically
18 created the curriculum for our basic course, assisted with our
19 advanced course. I was the co-creator of the curriculum for
20 our field training exercise, and I designed the CAST
21 certification training, which, you know, basically lays out all
22 four weeks of our training and what we do and how we do it.

23 In addition, I present pretty much monthly somewhere
24 at various conferences. Like, last month I just presented at
25 the Delaware State Police Homicide Investigators Conference.

1 Before that, I presented to a group of local law enforcement
2 officers about child abductions and cell phone analysis. So I
3 do quite a bit of training.

4 Q. Have you won any awards in regards to your work with
5 CAST?

6 A. I have, yes. In 2006, as we were creating this
7 project and this program, I was basically being sent all over
8 the country showing other FBI offices how to do this sort of
9 cellular analysis and how to locate visually things using
10 mapping programs.

11 So in 2006, I was awarded with the FBI's Director's
12 Award for Investigative Assistance, and then again in 2012, for
13 the formation of CAST. So I had actually won the FBI's
14 Director's Award twice?

15 And then once, I believe in 2007/2008, I was honored
16 by the FBI Agents Association with an award for investigative
17 excellence.

18 Q. Can you just tell the members of the jury, what is
19 historical cell site analysis?

20 A. So it's kind of like what I was discussing earlier.
21 So it's taking those call detail records, like I said, that
22 look very similar to your cell phone bill at the end of the
23 month. The only difference is they have, instead of just the
24 rows and columns of data of date, time, the phone number, who
25 called who, it has these extra columns of the cell sites. It's

1 a numeric code, and that numeric code is like a fingerprint.
2 It's its own identification number.

3 That identification number corresponds to a latitude
4 and longitude somewhere on earth where that cell phone tower is
5 located. And so historical cell site analysis is basically
6 recreating where a person was during their cell phone usage at
7 given days and times that are necessary to determine.

8 Q. How many cases or requests for historical record
9 analysis has CAST performed?

10 A. Oh, thousands at this juncture. We're probably well
11 over, as a unit, probably three, 4,000.

12 Q. What type of cases are CAST agents deployed to
13 handle?

14 A. Well, we can really get involved in anything where
15 FBI policy will allow us to be involved, where we have some
16 type of jurisdictional influence. But we have gotten involved
17 in pretty much every type of case that you could imagine, from
18 homicide cases to robbery, missing children, white collar
19 crime. Our entire unit was involved in the Boston Marathon
20 bombing, the Pulse Nightclub shooting.

21 We get involved nowadays in a lot of active sort of
22 command post settings where some sort of egregious thing
23 happened because, generally, somebody has a phone device, and
24 it's usually helpful to know what is going on with that device
25 and where.

SPECIAL AGENT SHUTE - DIRECT

1 Q. Have you testified as an expert in court before in
2 the field of historical cell site analysis?

3 A. Yes, yes, many times.

4 Q. Do you know approximately how many times and where?

5 A. Probably over 200 times by now, and I've testified in
6 over 25 states across the country.

7 MR. WITHERELL: Your Honor, at this time I would
8 offer Agent Shute as an expert in the field of historical cell
9 site analysis.

10 THE COURT: Any questions about his qualifications?

11 MR. MEEHAN: I have no questions for Mr. Shute.

12 MR. ORTIZ: No, Your Honor.

13 THE COURT: Ladies and gentlemen, once again, we have
14 another witness who has expertise in a certain field and will
15 be allowed to give opinions and as well as facts.

16 Go ahead. You may proceed.

17 - - -

18 DIRECT EXAMINATION

19 - - -

20 BY MR. WITHERELL:

21 Q. Agent Shute, can you describe for the jury the basic
22 technology that lets a cell phone communicate with another cell
23 phone?

24 A. Sure. We're talking about basic radio frequency
25 theory. It's not too different than maybe the little two-way

1 radio that you may have played with as a kid, basically, a
2 radio communicating with another radio that travels over radio
3 waves.

4 The big thing is that instead of two radios
5 communicating to each other, which is considered simplex radio
6 communications, it's a little different. This time the phone
7 communicates via radio or RF frequency to the cell phone tower,
8 and then the cell phone tower processes that call however it
9 does and then goes through and then winds up sending that
10 message or that phone call out on the other end.

11 What happens is, when you use your cell phone,
12 there's something really interesting that happens. So when
13 your phone is in idle mode, not in a call, just sort of sitting
14 there next to you or in your car or in your pocket or in your
15 pocketbook, the phone does this thing that we call stacking and
16 racking. It takes and examines all of the cell sites that it
17 can see, stacks them, and then racks them in order of the best
18 quality of signal.

19 So in the old days, a cell phone may have been able
20 to see about six cell sites in the area, and then one serving
21 cell site. Nowadays with smartphones and more complex devices,
22 the phone can actually see signals from roughly 20-plus cell
23 phone towers out there. But it still does the same thing here
24 in modern days. It stacks and then racks them in order of
25 appearance, the best quality of signal.

1 So if you were going into an ice cream shop and
2 looking at all of the ice cream, you're looking at them all and
3 stacking them and racking them because you like chocolate
4 marshmallow the best. It's the same thing. Your phone does
5 the same exact thing, puts to the top of the list the one that
6 it sees as the best quality of signal, and that's called a
7 serving cell site?

8 Then what happens is, if you make a call or the phone
9 call comes in, the way it works is, the cell phone calls -- the
10 outgoing call or the call coming in to you goes through the
11 network, and now the network needs to page you and find out
12 where you are. So you need to think of cell phone towers as a
13 grouping of towers in a geographical area, just like we are all
14 a group of people in His Honor's courtroom today. If we were
15 to go across the hall, there might be another courtroom with
16 another group of people.

17 Well, this grouping of people, if we were to be cell
18 phone towers, is called a LAC, a location area code, or a
19 network element identifier, depending upon what cell phone
20 provider you're talking about. What you need to understand is
21 that cell phone towers are grouped together in a group. Again,
22 we call it a LAC, a location area code.

23 So the way it works is this. The phone call comes
24 in. Your phone has stacked and racked and has to the top of
25 its list the best quality of cell site on its list. The

1 location area code, when the call comes in, it pages you like
2 an intercom throughout all of the cell phone towers in the LAC.
3 Eventually, the phone hears that signal, and it has to respond.
4 But it can only respond to one cell site, and it's the one that
5 it's camped on, the one that it stacked and racked to. It
6 hears the page and it sends a page response back saying I'm
7 here. It goes through about 12 interactions, one of them being
8 authentication. Are you a person who actually pays their cell
9 phone bill? If you pay your cell phone bill, then they let the
10 call go through. It goes through a few more interactions.
11 Next thing you know, it's up on a traffic channel on that
12 particular cell site and sector that the phone chose, and now
13 the phone call goes through. And it's at that moment, that
14 assignment of resources, that's when the cell tower records you
15 as being using that tower.

16 And that's how call detail records are generated. We
17 use those call detail records in investigations based on times
18 of the case that are important. We take that and we're able to
19 depict that onto a map.

20 Q. What are cell tower sectors and what do they mean for
21 historical cell site analysis?

22 A. In the presentation I have coming up, I have some
23 good examples of it, what it looks like, essentially what it is
24 is most cell phone towers in the country are split into three
25 sectors. So think of it as a big pizza cut into three big, big

1 slices, or pies cut into three slices. So probably 96,
2 97 percent of the cell phone towers in the country are still
3 these three-sector towers where you either have a tower
4 location or a building or a water tower or some sort of
5 structure, and they have antenna affixed to cover 120-degree
6 sectors in either direction.

7 Q. In this particular case, were you asked to --
8 directing your attention to this case in which Mr. Abdul West,
9 Jamaal Blanding, Jameel Hickson, and Hans Gadson are
10 defendants, were you asked to perform historical cell site
11 analysis on phones attributable to them as well as cell phones
12 attributed to certain alleged co-conspirators?

13 A. Yes, I was.

14 Q. In doing so, were you provided with call detail
15 records that included cell site records for T-Mobile, Sprint,
16 and AT&T?

17 A. Yes.

18 Q. After reviewing those records, were you able to
19 conduct an analysis of those phone records and determine where
20 certain phones were at certain times in this investigation?

21 A. Yes.

22 Q. In doing so, have you created a slide show
23 presentation explaining your work, your analysis of historical
24 cell site, as well as explaining where certain phones were
25 during certain parts of the investigation?

1 A. Yes.

2 MR. WITHERELL: Judge, with the Court's permission,
3 I'm going to ask that 801 be shown to the jury. I believe the
4 special agent has a clicker to help us move this along.

5 THE COURT: Go right ahead.

6 BY MR. WITHERELL:

7 Q. All right. So I'm guessing this is the cover page?

8 A. Yes, it is.

9 Q. Let's go past that. What are we looking at here?

10 A. So the first couple of pages are just sort of the
11 report pages, you know, basically laying out, first, the
12 background of the case, which obviously all of you know being
13 in the courtroom today. And then we have the target cell
14 phones listed, one for Abdul West, one for Jamaal Blanding, one
15 for Daryl Baker, one for Jameel Hickson, Amir Boyer, Hans
16 Gadson, Richard C. Hoover, and Dontez Stewart.

17 It goes on to explain the methodology of what we do,
18 which I think I've already explained, and then explains cell
19 site locations, which I did explain. And it just provides a
20 short conclusion.

21 Page 4 is the page that sort of shows a typical
22 three-sector tower. What we have here is sort of the
23 quintessential cell phone tower, which is a structure with
24 antenna assigned to it or affixed to it. These antenna panels
25 that I'm circling on the screen are essentially the transmit

1 and receive antennas. Some of these antennas are used for
2 transmitting out, and others are used for receiving in.

3 As you can see, there are three sectors to this
4 tower, which you'll see again in another explanation going out,
5 but one would be the alpha sector, one would be the beta
6 sector, and the other one would be the gamma sector, or one,
7 two, and three, if you want to think of it that way.

8 So this right here, page 5, shows cell site
9 sectorization. This is sort of if you were to look at a
10 satellite view looking down on top of a tower, you can see how
11 they are oriented in different fashions. This is just one
12 example. Cell phone providers orient their towers based on
13 what is good for them, where their clientele are.

14 But as you can see, we have three different sectors
15 here, this being sector one, the northern-faced tower or
16 sector; sector two, sort or the southeasterly facing tower; and
17 then sector three, the west- and southwest-facing tower. And
18 this does pertain to all three providers: T-Mobile, Sprint,
19 and AT&T.

20 The next page, page 6, just shows sector
21 illustration, so what you will see later on on the report.
22 Again, this sort of shows that sort of pie wedge that you see
23 with a shaded arc is used to illustrate the cell site sectors
24 and then again off to the right, just to give you a perspective
25 as to what you're going to see in relation to what you've

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1 already known. Again, it's a 120-degree sector.

2 The shaded arc, it's important to note that this sort
3 of little shaded arc that I'm circling off to the right, that
4 is only used to depict the primary direction that the radio
5 frequency is emitted. It's not intended to show the distance
6 that the frequency would travel.

7 And finally -- actually, I did say all that. So it's
8 not intended to sort of show a range. It's just intended to
9 show the directionality of that particular sector.

10 And, again, these are the three sectors: The alpha,
11 the beta, the gamma, or one, two and three.

12 Page 7 just shows the target phones analyzed, and
13 I'll just read them for the Court's record: Jameel Hickson,
14 (818)425-8500, a T-Mobile phone number; Amir Boyer,
15 (215)824-9451, also a T-Mobile number; Hans Gadson,
16 (267)469-6579, also T-Mobile; Richard C. Hoover, (702)305-6012,
17 a Sprint number; Dontez Stewart, (856)655-3893, also a Sprint
18 number.

19 And the last three, Abdul West, (215)554-1686, an
20 AT&T number; Jamaal Blanding, (267)586-4737, also AT&T; and
21 finally, Daryl Baker, (215)900-7188, also AT&T.

22 Page 8 just shows the target phone colors essentially
23 showing that, when you see various phone numbers, they will be
24 attributable to that color. So, for example, Abdul West will
25 be depicted in an arc color of a light blue, and then coming

1 down here, Jamaal Blanding would be shown as red and so on and
2 so forth. Daryl Baker would be green; Hans Gadson would be a
3 pinkish color; Dontez Stewart, yellow; Richard Chase Hoover in
4 a darker grayish black; Amir Boyer in orange; and Jameel
5 Hickson in purple.

6 Q. Special Agent, we've heard some testimony concerning
7 six trips done to California with alleged co-conspirator
8 Richard Chase Hoover, Defendant Jamaal Blanding, and Defendant
9 Jamaal Blanding, and Defendant Jameel Hickson.

10 Were you provided with certain dates of those trips?

11 A. Yes, I was.

12 Q. Were you asked, using the cell sites associated with
13 those individuals, to confirm their travel to and from the West
14 Coast?

15 A. Yes, I was.

16 Q. Were you also asked at both ends of the trip, both
17 the trip to California and the return trip to Philadelphia, to
18 look at common call locations of various members of alleged
19 co-conspirators and defendants?

20 A. Yes, I was.

21 Q. We're going to get to that second part a little
22 later, but let's just talk about the first trip. We've heard
23 some testimony concerning a trip to California dated November 2
24 to November 20, 2017. Can we go to your next slide?

25 A. Yes.

1 Q. I just want to be clear. It goes to November 23
2 because we're talking about that common call location at the
3 end of the trip?

4 A. That's correct.

5 Q. We'll get to that. Let's go to the next slide. Can
6 you tell us what we're looking at?

7 A. Yes. Page 10 is showing a map of the United States,
8 and this is for Jamaal Blanding on November 14, 2017. What we
9 see first is that Mr. Blanding's phone is being used by the
10 Philadelphia International Airport around 6:19 a.m. We then
11 see it being used at 7:43 a.m. Central time at the Minneapolis
12 Saint Paul Airport, and then finally later in the day on
13 November 14 at 10:55 a.m. Pacific time in Los Angeles right at
14 LAX, the Los Angeles International Airport.

15 Q. Next slide.

16 A. Page 11 shows Richard Chase Hoover, and this actually
17 spans several days, November 2 to the 6th of 2017. We see
18 that, on November 2, Mr. Hoover is here in Philadelphia at
19 10:49 a.m., 11:00 a.m., and then continues moving throughout
20 the country, eventually by the 3rd, has reached Ohio by the
21 3rd. Continuing on, by November 4 he's in Oklahoma. By the
22 5th, he has now reached Arizona. And on November 6th,
23 approximately 8:24 a.m., 8:27 a.m., he's now in Los Angeles,
24 California.

25 So, basically, if you follow the arrows, basically

1 moved westerly, southwesterly, until he reached Los Angeles,
2 California.

3 Q. And the next slide.

4 A. Page 12 shows Jameel Hickson's T-Mobile phone was
5 using the phone at 1:33 a.m., 4:14 a.m. in Philadelphia, and
6 then the next usage was later that day, 11:09 a.m. Pacific time
7 in Los Angeles over here.

8 Again, only have the usage, so, again, started here
9 on the East Coast, ended over here on the West Coast right by
10 LAX, the Los Angeles International Airport.

11 Q. Were you asked to determine then when all three of
12 these individuals were in Los Angeles to determine whether or
13 not at any time all three of their phones were utilizing
14 similar cell towers?

15 A. Yes.

16 Q. Can you tell us a little bit about that?

17 A. Yes. So one of the kind of cool little functions of
18 the program that we use, it allows us to put in a radius, and
19 it will tell me whenever the various target phones that I've
20 entered into this particular case analysis are within a certain
21 distance of each other. And I chose a very small distance of
22 two-tenths of a mile, so roughly, you know, a thousand feet or
23 so.

24 So we were able to determine that on November 14,
25 2017, between 9:00 p.m. and 11:00 p.m., all three phones

1 belonging to Mr. Hoover, Mr. Blanding, and Mr. Hickson were all
2 in the vicinity of sort of Western Ave. and Wilshire Boulevard
3 in Los Angeles, California. In fact, I was later provided an
4 address of the Line Hotel at 3515 Wilshire, and it is right in
5 the area where all the phones are using cell site sectors.

6 Q. How many cell sites would be across America?

7 A. Across the entire United States?

8 Q. Right.

9 A. Well, we'd have to take that for the provider, each
10 provider. So this happened in 2017. I would have to say
11 probably, if you were to take any one of these providers, like
12 T-Mobile -- let's see, we have T-Mobile, Sprint, and AT&T phone
13 all used here. So AT&T alone would have probably half a
14 million cell sites, probably somewhere around 500,000 towers
15 across the country.

16 Q. So that's just AT&T alone, and now on this particular
17 day, these three cell phones are all utilizing cell sites that
18 cover the Line Hotel?

19 A. That's correct. So you have Mr. Hoover's phone is
20 utilizing cell sites in and around here, and then you have
21 Mr. Hickson's phone, and then also Mr. Blanding's phone. All
22 three of them are, I believe, on different cellular providers.
23 So you have them all using cell sites right here by the Line
24 Hotel at 3515 Wilshire.

25 Q. Let's go to the next slide. What are we showing

1 here?

2 A. So I was asked to take a look at when they arrived in
3 Los Angeles, any common call locations in Los Angeles, and now
4 I was asked to look at when they return from Los Angeles back
5 to Philadelphia.

6 So on November 17, the phone attributable to Jamaal
7 Blanding is first used at or near Los Angeles International
8 Airport right about midnight on the 17th, and then travels by
9 way of Minneapolis Saint Paul Airport again, where it was used
10 5:40 a.m. Central time and then back to Philadelphia being used
11 in Philadelphia 10:44 a.m. Eastern time.

12 Q. Next one.

13 A. Yes. Page 15 shows Mr. Hoover's phone from
14 November 15 to the 20th. Again, seems to be driving, and so it
15 appears that it would have to obviously take longer than just a
16 day. So we see usage in Los Angeles at 5:46 p.m. Pacific time
17 on November 15. By the 16th, he has moved into New Mexico.
18 Moving along to the 17th, the phone is now in Oklahoma.
19 November 18, the phone has now reached Tennessee, 19th into
20 Virginia, and then back on the 20th to Philadelphia. So if you
21 follow, again, the arrows, the phone basically moves easterly
22 and then northeasterly back to the Philadelphia area.

23 Q. Richard Chase Hoover begins his trek east on the 15th
24 it looks like?

25 A. Yep, November 15.

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1 Q. All right. Let's go to the next slide.

2 A. Yes. The next slide, page 16, shows Jameel Hickson
3 from November 16 through the 17th, and it's important to note
4 that Hickson departed Los Angeles on November 16, 2017. The
5 phone was last used at 4:18 p.m. Pacific time on November 16,
6 traveled by way of the Houston International Airport where we
7 see the phone was used at just approximately 7:30 a.m. on the
8 17th, and then used again in Philadelphia at 2:05 p.m. Eastern
9 time on the 17th.

10 Q. Special Agent Shute, we heard some testimony
11 concerning alleged co-conspirator Richard Chase Hoover's
12 arrival at 1 Brown Street Philadelphia on or about November 20,
13 2017. Were you asked to look at common call locations of
14 various defendants and alleged co-conspirators around that
15 location after Richard Chase Hoover's arrival back in
16 Philadelphia?

17 A. Yes, I was.

18 Q. Please tell us about that.

19 A. Sure. So what we have here is calls showing all the
20 various colors shown up here in the upper left-hand corner.
21 You have Mr. Hoover's color, which is the grayish black; Abdul
22 West, which is in a lighter blue; Mr. Gadson in the pink;
23 Blanding in red; Boyer in, like, a yellowish-orange; and
24 Hickson in purple.

25 This slide, page 17, just shows the vicinity of 1

1 Brown Street, Philadelphia, Pennsylvania, and then shows the
2 various calls. So what we have here first is both Mr. Hickson
3 and Mr. West's phones being used all around 1 Brown Street on
4 the 20th, on the 21st, on the 22nd, and the 23rd we have usage
5 of those various phones during that time.

6 Then we have Mr. Hickson's phone, and we have also
7 Mr. Gadson's phone being used in and around that vicinity also
8 on the 20th, 21st, and 23rd.

9 Mr. Hoover's phone's being used on the 20th and 21st,
10 Mr. Boyer's phone being used on the 22nd around 7:23 p.m., and
11 then also Mr. Blanding's phone being used on the 22nd at
12 11:00 p.m.

13 Q. Just to be clear, you only see a dot or connection or
14 one of the triangles you're speaking about when an actual
15 connection is made on a cell phone, correct?

16 A. That's correct.

17 Q. So someone could have their cell phone, be at that
18 location, but if they don't make a phone call or receive a
19 phone call, it's not going to appear in the call detail
20 records, you're not going to be able to plot it?

21 A. It would have to be a text message, a cell phone
22 call, or some sort of data usage, just actual usage of the
23 phone. If the phone was just sitting there stacking and
24 racking, we don't see that. That's so voluminous that the
25 cellular provider doesn't keep that sort of the little

1 exchanges with the network that happen. It has to be
2 something, an actual usage of that device.

3 Q. We've heard testimony of a second trip, approximate
4 dates of December 12, 2017 to December 22, 2017. I see you've
5 done some work on that one as well.

6 A. Yes. This is page 18, just a transition slide
7 showing that we're focused now on December 11 through December
8 22, 2017.

9 Q. Let's go through it. What do we see?

10 A. Again, I'll follow that same pattern of first Jamaal
11 Blanding, then Mr. Hoover, and then Mr. Hickson. And so what
12 we have here is Jamaal Blanding on December 16, 2017 utilizing
13 his AT&T cellular phone at 3:50 a.m. by the Philadelphia
14 Airport in Philadelphia, then moving through to Houston, being
15 used in Houston at 9:15 a.m. Central time, eventually then
16 utilizing cell sites in Los Angeles later on in the day
17 approximately 10:50 a.m. Pacific time on the West Coast. And
18 during this time, Mr. Blanding's phone was in Los Angeles from
19 December 16 through December 19.

20 Q. Special Agent Shute, I'm probably being obvious here,
21 but can you tell by these cell sites if Mr. Blanding is flying
22 or driving?

23 A. Well, yeah. Obviously, there's a lot of things that
24 can be determined by cellular usage. Just based on the fact
25 that the phone is, for example, here in Houston at 9:15 a.m.

1 Central time and then being used again at 10:49 Pacific time,
2 that's roughly a three-hour gap of time when you adjust for
3 time zones, and that's exactly approximately how long it takes
4 to fly from Houston to Los Angeles. So in this case, unless
5 Mr. Blanding was The Flash, the only way that he could get
6 there is by way of airplane.

7 Q. I just wanted to clarify that. Thank you.

8 Let's go to the next slide. We're talking about
9 Mr. Richard Chase Hoover.

10 A. So page 20 shows Mr. Richard Hoover's phone,
11 December 11 through December 15, again, showing a travel across
12 the country utilizing cell sites first on the 11th at
13 10:12 p.m. in the Philadelphia, Pennsylvania area, moving into
14 Tennessee on the 13th, obviously in here on the 12th, which
15 would be sort of Ohio and Kentucky, but by the 13th he's in
16 Tennessee. On the 14th he's made his way into Oklahoma.
17 December 15 the phone is now in New Mexico.

18 Just so you know, where it says Number 50 in that
19 upper left-hand corner there, you see Number 50 here. It
20 corresponds to that location. Just let the Court record
21 understand I'm pointing to somewhere centrally in New Mexico
22 indicating Number 50.

23 And then, finally, on the 15th of December, the phone
24 has now reached Los Angeles, again, following the arrows moving
25 westerly-southwesterly and then pretty much west across the

1 country until it reaches Los Angeles on December 15.

2 Q. Okay. Next.

3 A. Jameel Hickson, on December 16, starts in
4 Philadelphia at 2:30 a.m., is then used at the Chicago O'Hare
5 Airport at 9:00 a.m. on the 16th, and then later used at
6 7:08 p.m. by the Los Angeles International Airport and in Los
7 Angeles. As we see, the trip goes from Philadelphia to Chicago
8 to Los Angeles.

9 Q. Were you asked, again, to look for common call
10 locations when all three of these cell phones were within that
11 distance that you provided earlier?

12 A. Yes, I did.

13 Q. Two-tenths of a mile I think you said?

14 A. Yep, yep. So I was able to first determine that
15 Mr. Hickson's phone was in Los Angeles from the 16th to
16 December 20.

17 When I went and looked at what I was asked to look
18 into, which was, again, any common call locations where all of
19 these phones that were first in Philadelphia wind up together
20 in Los Angeles, I found that on December 6, 2017, between
21 9:00 p.m. and 11:00 p.m., what you see here on page 22 shows
22 usage by Jamaal Blanding, Richard Hoover, and Jameel Hickson
23 all, again, very close to the Line Hotel, which is right here
24 circling it on the map, the Line Hotel, 3515 Wilshire Boulevard
25 in Los Angeles, California.

1 Q. Any more common call locations on this trip?

2 A. Yes. I was able to go into the next day, which was
3 December 17, 2017. Between 12:00 p.m. and 3:00 p.m., I found
4 that all three phones were once again back in that same common
5 call location utilizing cell sites between 12:00 noon and
6 3:00 p.m. right by the Line Hotel.

7 Q. And do we have the departure of all three
8 defendants -- two defendants and one alleged co-conspirator?

9 A. That's correct.

10 Q. Let's look at that.

11 A. So we see on December 19, Jamaal Blanding departs on
12 the 19th from Los Angeles. We see usage there at 12:39 p.m.
13 Pacific time. This time the flight seems to go through Denver,
14 Colorado, where the phone is used by the Denver International
15 Airport at 4:22 p.m. Mountain Time, and then arriving back in
16 the Pennsylvania area at 11:00 p.m.

17 Page 25 shows Richard Chase Hoover. Mr. Hoover
18 departed Los Angeles on December 19, and as we see, I'll pop up
19 several calls on the screen. First, 9:38 a.m. showing that the
20 phone is still in the Los Angeles area on the 19th. By the
21 20th of December 2017, the phone is now at 10:12 a.m. Mountain
22 Time in New Mexico. And then we see on 12/21/2017 the phone
23 has reached Missouri. 12/22/2017, the phone is in Ohio,
24 eventually coming back later in the day on the 22nd back to the
25 Philadelphia, Pennsylvania area at approximately 9:00 p.m. on

1 the 22nd. Once again, following the arrows, the phone moves
2 easterly-northeasterly through the country until it arrives
3 back in the Philadelphia area.

4 And then, finally, Jameel Hickson on December 20,
5 2017. Here on page 26 we see Mr. Hickson departed Los Angeles
6 on December 20, 2017 utilizing cell sites around 5:00 a.m. at
7 the Los Angeles International Airport, eventually being used in
8 Chicago at 1:45 p.m., and then eventually back in Philadelphia
9 at 8:00 p.m., 9:00 p.m. on the 20th.

10 Q. We heard testimony concerning Richard Chase Hoover
11 entering the vicinity of 2323 Race Street. Did you do any
12 common call locations for any of the defendants or alleged
13 co-conspirators?

14 A. I did, yes.

15 Q. Tell us about that.

16 A. So on page 27, I'm showing the vicinity of 2323 Race
17 Street in Philadelphia, and during this time frame there were
18 phone calls being made from Mr. West, Mr. Gadson, Mr. Boyer,
19 and Mr. Blanding being used throughout that time frame between
20 8:00 p.m. and 11:00 p.m., all in the vicinity of the Edgewater
21 Apartments, which is 2323 Race Street.

22 Q. All utilizing cell phone towers in the vicinity of
23 the Edgewater Apartments?

24 A. That's correct.

25 Q. We had another trip, January 19 to approximately

1 January 31, 2018. I know you have February 1. You're going to
2 do that common call location.

3 A. Yes.

4 Q. Let's talk about this. I think we can probably speed
5 up on the travel to and from.

6 A. Sure. Sure. Page 29 shows Mr. Blanding's phone,
7 AT&T phone, again, in Philadelphia, Chicago, and then
8 eventually in Los Angeles by 11:19 a.m. on January 24.
9 Mr. Blanding was in Los Angeles from January 24 to January 27?

10 Moving on to Mr. Hoover, we see that he departs
11 Philadelphia on January 19, makes his way through the country,
12 eventually arriving in Los Angeles at 6:48 p.m. on January 22,
13 or at least by cell phone usage. Once again, if you follow the
14 arrows, he moves westerly-southwesterly across the country. He
15 was in Los Angeles from January 22, 2018 until January 26,
16 2018.

17 Page 31 shows Mr. Hickson's phone first being used at
18 11:00 a.m. in Philadelphia on January 23, eventually being used
19 again near Los Angeles International Airport on the 24th of
20 January 2018 at approximately 11:55 a.m.

21 Q. Common call locations of all three phones in LA?

22 A. Yes. Yes. And on January 24, 2018, between
23 3:00 p.m. and 5:00 p.m., we see, once again, all three phones
24 utilizing cell sites in and around Wilshire Boulevard, and it
25 just so happens that it's one again the Line Hotel, 3515

1 Wilshire Boulevard, which is right in the middle of the
2 coverage area of all three cell sites.

3 Q. How about on the next slide?

4 A. Then we also found another common call location
5 during that time frame on January 26, 2018. This is between
6 4:00 p.m. and 5:00 p.m., and we see that all three phones are
7 again utilizing cell sites in and around the Line Hotel at 3515
8 Wilshire Boulevard.

9 Q. I'm guessing that the next slide shows the departure
10 of all three individuals?

11 A. That's correct. We have Mr. Blanding on page 34. He
12 departs Los Angeles -- he's in Los Angeles at 5:00 a.m. on
13 January 27, but by 10:33 a.m. Central Time Mr. Blanding's phone
14 is by the Houston International Airport and eventually arriving
15 back in the Philadelphia area at 4:32 p.m. Eastern Time on
16 January 27.

17 Page 35 shows Mr. Hoover departing Los Angeles and
18 moving across the country once again. He is in Los Angeles on
19 January 26, 2018, travels easterly-northeasterly --

20 THE COURT: I think we can shorten this. The jury
21 can see the map. The witness has received testified several
22 times. Can we expedite?

23 MR. WITHERELL: Absolutely. We're going to go as
24 fast as possible.

25 BY MR. WITHERELL:

1 Q. Let's go to slide 37. Can you do that from there?

2 A. Sure.

3 Q. This is when all three individuals are back. Any
4 common calls of the vicinity of 2323 Race Street?

5 A. Yes. So on this day we see, on January 31, 2018, the
6 usage of Mr. West's and Mr. Blanding's cell phone being used in
7 the vicinity of 2323 Race Street between 4:00 p.m. and
8 7:00 p.m.

9 Q. How about the next day?

10 A. The next day, February 1, we see more calls in the
11 vicinity of 2323 Race Street. At this time, we see Mr. West's
12 phone being used, Mr. Gadson, Mr. Blanding, Mr. Boyer's phone.
13 And Mr. Hoover was in that vicinity as well.

14 Q. We're going to now talk about the trip from
15 February 23 to approximately March 4.

16 A. Yes.

17 Q. The trips there, let's make it as quick as possible.

18 A. Here we go. On page 40, Mr. Blanding leaves
19 Philadelphia and arrives in Los Angeles on the 23rd of
20 February. Page 41 shows Mr. Hoover leaving Philadelphia,
21 traveling across country in the same fashion, arriving in Los
22 Angeles on February 24, approximately 11:00 p.m., again,
23 traveling across country.

24 Mr. Hickson, on page 42, is in Philadelphia and then
25 travels across country to Los Angeles, where he is in Los

1 Angeles on February 23, 10:30 a.m. Pacific Time.

2 Q. Common call locations for all three of these
3 individuals in California, please.

4 A. Yes. There was a common call location. This time
5 the location changed, shifted a little bit, and now the call
6 location was sort of right off of Beverly Boulevard. And it
7 was -- I was advised that there was a location of interest, the
8 Avenue Hotel, 321 North Vermont Avenue in Los Angeles,
9 California. These phones were used in this vicinity from about
10 11:00 p.m. on the 24th of February 2018 until February 25, 2018
11 at about 1:00 a.m.

12 Q. Okay. I'm sure the next one are return trips?

13 A. Yes. So we have Mr. Blanding traveling from Los
14 Angeles by way of the Chicago airport back to Philadelphia on
15 the 28th of February.

16 We have Mr. Hoover making the cross-country trip once
17 again departing Los Angeles at 11:40 a.m. on the 28th and
18 arriving on March 4 at 6:16 p.m. in Philadelphia, Pennsylvania?

19 And then finally we have Mr. Hickson's phone utilized
20 in Los Angeles by the airport at 9:30 p.m. on March 1 traveling
21 by way of Houston and then arriving in Philadelphia on March 2
22 roughly at 11:53 a.m. on March 2, 2018.

23 Q. We've heard some testimony concerning Defendant West
24 and Defendant Blanding picking up Hoover in the vicinity of
25 3600 Lawrence Street Philadelphia, PA, which is a truck stop.

1 Were you able to confirm this using your cell site analysis?

2 A. Yes, I was.

3 Q. Please show us.

4 A. So this is -- the green box here in the center of the
5 screen is the -- I have it listed as ML, meeting location.

6 That is 3600 Lawrence Street Philadelphia, PA. And between
7 6:00 p.m. and 8:00 p.m. on March 4, we see that there's a lot
8 of phone usage on Mr. Blanding's phone, Mr. Hoover's phone, and
9 also on Mr. West's phone in and around that area at that time.

10 Q. We also heard testimony that on this particular trip
11 they went back to 2323 Race Street. Have you done common calls
12 for that?

13 A. Yes. On this particular location, I see Mr. West and
14 Mr. Blanding's phone being used on March 4, 2018 between
15 8:00 p.m. and 9:00 p.m.

16 Q. Let's go to the next trip, March 27 to April 9.
17 We'll go there as quick as possible.

18 A. Sure. So this is Jamaal Blanding and Jameel Hickson.
19 It appears that they were on the same flight on this day
20 because the phones -- both phones started in Philadelphia and
21 then both landed in Las Vegas right by the Las Vegas airport.
22 Both phones were used within five minutes of each other right
23 here at the Las Vegas airport. And then it looks like they
24 flew into Las Vegas, and this area that I've put into the box
25 that is blowing up on the screen shows an area encompassing

1 both Las Vegas and Los Angeles. That will be on page 51. And
2 we can see that they drove from Las Vegas to Los Angeles based
3 on the cell sites. Their phones are in Las Vegas area at
4 11:00 a.m. Pacific Time and then eventually make their way into
5 San Bernardino area at 2:32, 2:56 p.m., and then into Los
6 Angeles shortly after that.

7 Q. Common call locations when all three were in LA
8 together?

9 A. Well, first we have to show Mr. Hoover. Mr. Hoover
10 also drove across the country one more time, started on
11 March 27, 2018, arrived in Los Angeles March 31, 2018.

12 The common call location on page 53 shows between
13 April 1, 2018 at 8:00 p.m. and April 2, 2018 at midnight, it
14 shows once again the phones have all been in a similar area.
15 Mr. Blanding, Mr. Hickson, and Mr. Hoover's phones were being
16 used at different times between 8:00 p.m. and 12 midnight, once
17 again, in the vicinity of this Avenue Hotel, 321 North Vermont
18 Avenue in Los Angeles.

19 Q. Trips back?

20 A. Mr. Blanding leaves Los Angeles on April 2. He is
21 there on April 2, arrives back in Philadelphia at 9:35 a.m. on
22 April 3.

23 Mr. Hoover makes the trek across the country one more
24 time and continues moving easterly-northeasterly. This time
25 seems to go up by Erie, Pennsylvania, first, then comes back

1 into Philadelphia on April 10, 2018.

2 And Mr. Hickson departs Los Angeles on April 2 as
3 well and then travels back and is back in Philadelphia later on
4 in that same day at 2:20 p.m. Eastern Time.

5 Q. We've heard testimony concerning Mr. Richard Chase
6 Hoover's arrival at 2323 Race Street on April 9, 2018. I'm
7 wondering how many of the defendants and alleged
8 co-conspirators can you tell were all together near that date.

9 A. On this particular date, April 11, 2018, between
10 1:00 p.m. and 6:00 p.m., you have had what I would call a
11 cornucopia of colors on the screen, but they're all represented
12 here in the upper box in the upper left-hand corner.
13 Mr. Hoover, Mr. West, Mr. Gadson, Blanding, Boyer, and Hickson,
14 as you can see, they're all there in that sort of area in
15 Philadelphia where they're using cell towers in the vicinity of
16 the Edgewater Apartments, 2323 Race Street.

17 Q. Last trip?

18 A. May 4, 2018 to May 16, 2018, we see on May 9 Jamaal
19 Blanding departs Philadelphia, flies this time by way of Salt
20 Lake City, Utah, and then eventually arrives in Los Angeles at
21 9:42 p.m. on May 9, 2018. He was there for three days, May 9,
22 May 10, and May 11.

23 Mr. Hoover departs Philadelphia on May 4, makes his
24 way across the country one final time, where he arrives in Los
25 Angeles on May 8, 2018, roughly at 7:00 p.m.

1 And then Mr. Hickson departs Philadelphia. He's
2 utilizing cell sites in Philadelphia, 3:18 a.m., 3:24 a.m.,
3 flies by way of Chicago where the phone is used there, and then
4 eventually arriving in Los Angeles 9:42 p.m. on May 9, 2018.

5 Q. Common calls?

6 A. Yes. On page 62, we see a common call location again
7 on May 10, 2018 between 8:00 a.m. and 12:00 noon. Once again,
8 all the phones were utilized in this vicinity at this time,
9 which again represents roughly only about a two-tenths of a
10 mile area. And we see again the Avenue Hotel, 321 North
11 Vermont Avenue, Los Angeles, California.

12 Later in the day there was also another common call
13 location, May 10, 2018, between 5:00 p.m. and 7:00 p.m. All
14 the phones were utilized in this area right in Beverly Hills in
15 sort of a tight cluster. This is right off of Santa Monica
16 Boulevard.

17 On page 64, we see Jamaal Blanding. He departs Los
18 Angeles, goes back through Salt Lake City, and arrives in
19 Philadelphia on May 11 at 4:18 p.m. Eastern Time.

20 Mr. Hoover makes the trek across the country once
21 again moving easterly-northeasterly moving all the way back to
22 the Philadelphia area, where he arrives roughly sometime around
23 7:45 p.m. on May 16, 2018?

24 And then finally Mr. Hickson departs Los Angeles on
25 May 11, 2018 at 5:00 p.m., roughly 5:00 p.m., utilizing cell

1 sites back in Philadelphia on the 12th at 5:37 p.m. Obviously
2 not as much usage on that cell phone, but we see on the 11th in
3 Los Angeles, on the 12th back in Philadelphia.

4 Q. I'm going to skip the next three slides. We'll come
5 back to that if we have time. I'm going to go to June 22,
6 2017.

7 A. Okay.

8 Q. June 22, 2017, we've heard some testimony with an
9 individual by the name of Dontez Stewart alleged to have been
10 provided crack-cocaine by Mr. Abdul West in the vicinity of 444
11 North 3rd Street, which is a recording studio commonly referred
12 to as Bat Cave.

13 Can you tell us if you did any cellular analysis
14 confirming where Mr. West was and where Mr. Dontez Stewart was
15 on this date?

16 A. So on June 22, 2017, between 2:00 p.m. and 7:30 p.m.,
17 we see Mr. West's phone had over 150 calls from these two cell
18 sites depicted. The first one and then the second one in the
19 vicinity of 3234 North Sydenham Street was the location that I
20 was provided. That was the significant location. So, yeah,
21 150 calls between that time period placing the phone sort of in
22 a stationary area.

23 Page 72 then shows between 7:00 p.m. and 11:30 p.m.
24 later that evening, we see that Mr. West's phone moves from the
25 area it was in down to an area closer to 444 North 3rd Street,

1 Philadelphia, PA. So at that point these two phones are, you
2 know, utilizing cell sites very, very close together.

3 Mr. Stewart, I think, was on the Sprint network. Mr. West was
4 on a completely different. I believe that's AT&T.

5 Q. These times listed here, both cell phones were
6 utilizing cell towers that were in the vicinity of that address
7 we just spoke about?

8 A. Yes, that is correct. That's 444 North 3rd Street in
9 Philadelphia.

10 Q. Next slide. We heard testimony concerning another
11 controlled purchase on August 17, 2017, where Dontez Stewart
12 met with Abdul West at 3234 North Sydenham Street to get
13 together crack-cocaine prior to returning to a confidential
14 informant.

15 Were you asked to determine whether or not those
16 phones were in the same location that day?

17 A. Yes.

18 Q. Tell us about that.

19 A. Page 74 shows the usage of Mr. Stewart and Mr. West's
20 cell phone between 3:30 p.m. and 4:10 p.m. We see that
21 Mr. West is sort of depicted in light blue and Mr. Stewart is
22 in a bluish -- I mean a yellowish and black. We see 3234 North
23 Sydenham Street, and we can see that between this time frame,
24 roughly 40 minutes, both of the phones are being used by cell
25 sites in the vicinity.

1 Q. Next slide. We've heard a great deal of testimony
2 about a search of September 11, 2017 at that Sydenham Street
3 residence.

4 Were you asked to determine what defendants or
5 alleged co-conspirators were in the area on that date at
6 certain times?

7 A. Yes. So on September 11, 2017, between 2:30 p.m. and
8 7:30 p.m., we see 3234 North Sydenham Street. First, we see
9 Mr. West's phone is there from 6:00 p.m. through 7:00 p.m.,
10 roughly. We see also, during that time, Mr. Gadson's phone is
11 used at 5:15 p.m., 5:35, 5:36 p.m. Also was there at 2:31 p.m.
12 all the way through 7:26 p.m. So utilizing cell sites all in
13 that vicinity pretty much between 2:30 and 7:30.

14 We see Mr. Blanding's phone being used at 6:56 p.m.
15 and also 7:01 and 7:13 p.m., also in the vicinity of the
16 residence. And then also we see Mr. Boyer's phone being
17 utilized during that time frame off of multiple cell sites
18 between 3:00 p.m. and 7:00 p.m.

19 And then finally we see Mr. Hickson's phone was --
20 Mr. Hickson's cell phone was utilized also, one at 6:35 p.m.
21 So you have -- all within a pretty tight vicinity, we have all
22 of phones of Mr. Hickson, Mr. Boyer, Mr. Gadson, Mr. Blanding,
23 and Mr. West in a very close proximity somewhere just off of
24 Broad Street and just to the west of Broad Street.

25 Q. We've heard some testimony from Mr. Dontez Stewart

SPECIAL AGENT SHUTE - DIRECT

1 concerning a meeting that he had with Mr. West prior to an
2 Instagram message to an individual by the name of Robbie
3 Johnson, who was later deceased.

4 Were you asked to confirm whether or not
5 Mr. Stewart's cell phone travels closer to the location of
6 Mr. West's cell phone on Marvine Street prior to that 7:50 text
7 message?

8 A. Yes.

9 Q. Tell us what you found.

10 A. So this is sort of a macro view of Roosevelt
11 Boulevard and Broad Street sort of showing a large section of
12 Philadelphia. We see that Mr. Stewart's -- first of all, we
13 see 4553 North Marvine Street here represented by the little
14 box with the "I" in it, meaning an area of interest.

15 We see Mr. West's phone being is being used at
16 6:58 p.m., 7:16, 7:41 p.m., and 7:44 p.m., and then again off
17 of this other cell site all between 7:17 and 7:40. So you have
18 a lot of usage there between 6:58 and 7:44 p.m.

19 And then at 7:14 p.m., we see a westerly flow of
20 Mr. Stewart's phone moving in the direction up until 7:36 p.m.
21 of the general location.

22 Q. Next slide. We heard testimony from Mr. Stewart --
23 you were provided with a location where Robert Johnson was
24 eventually murdered, correct?

25 A. Yes, 4000 Benner Street in Philadelphia.

1 Q. We heard testimony from Mr. Stewart that, prior to
2 his murder, Mr. Stewart met with him prior to the time of the
3 actual murder at this location.

4 Were you able to confirm Mr. Stewart's location at
5 those times?

6 A. Yes. This shows the approximate crime scene that
7 happens at 3:30 a.m., and we see Mr. Stewart's phone utilizes
8 this cell site here in the Frankford section at 11:00 p.m. to
9 11:11 p.m., utilizes another cell site just further north or
10 west at 11:25, utilized the cell site of Mayfair and Tacony at
11 11:28 and 11:41, utilizes another cell site just north of
12 Lincoln Avenue 11:43 and 11:49, and then also a cell site in
13 the Wissinoming section from 11:58 p.m.

14 So you have three cell sites also encompassing the
15 crime scene area that all serve as sort of a general area in
16 here represented nearby the crime scene being utilized
17 essentially between 11:00 p.m. and midnight.

18 Q. Next slide. Around 3:30 is the time Mr. Robert
19 Johnson is murdered.

20 Do we confirm that Mr. Stewart's cell phone is in
21 that vicinity around that time?

22 A. That's correct. So the crime scene is approximately
23 3:30 a.m. We see cell sites being utilized in and around the
24 crime scene between 3:15 p.m. and 3:38 p.m.[sic], all putting
25 Mr. Stewart in the vicinity of the crime scene.

1 Q. After the date of October 14, around noon on that
2 date, do we have any more connection or services on
3 Mr. Stewart's phone?

4 A. No.

5 Q. There's no more connections from that phone?

6 A. That's correct.

7 Q. On October 19, 2017, we heard testimony concerning
8 another controlled buy done on Mr. Dontez Stewart where we
9 heard testimony that he went to an area on Smedley Street and
10 met with Hans Gadson, where he was provided with a quantity of
11 crack-cocaine before returning to a confidential informant.

12 Were you able to determine if Mr. Gadson's cell
13 phone, where that was October 19, 2017 on Smedley Street?

14 A. Yes. So this slide, slide 82, shows Mr. Gadson's
15 cellular usage between 3:00 p.m. and 6:00 p.m. on October 19,
16 2017, in relation to the vicinity of 3400 North Smedley Street.
17 North Smedley Street is represented in the center of the slide
18 with the blue box with the letter "I" in it for an area of
19 interest.

20 As you can see from the slide, there are cell sites
21 being utilized all around that area from approximately
22 3:00 p.m. to 6:00 p.m. in that time frame, or roughly 3:00 p.m.
23 to 5:24 p.m., in and around the area of 3400 North Smedley.

24 MR. WITHERELL: Your Honor, I have no further
25 questions.

1 THE COURT: Okay. Would any member of the jury like
2 to take a break at this time? Short break? Okay. Try to keep
3 it to ten minutes. We'll go until 4:30. Thank you. Please
4 keep an open mind.

5 (The jury exits the courtroom at 3:38 p.m.)

6 THE COURT: Any of the defendants need to use the
7 bathroom? All right. 10-minute recess. Whenever the cross is
8 done, then Agent Updegraf is next, and he's your last witness?

9 MR. STENGEL: That's true, Your Honor.

10 (Recess taken from 3:38 p.m. to 3:54 p.m.)

11 THE COURT: Okay. Bring the jury in, please.

12 (The jury enters the courtroom at 3:55

13 p.m.)

14 THE COURT: Okay. We will now have
15 cross-examination. Mr. Hughes.

16 - - -

17 CROSS-EXAMINATION

18 - - -

19 BY MR. HUGHES:

20 Q. Good afternoon, sir. So, Special Agent, this is
21 page 38 of the CAST exhibit, and you would agree with me this
22 is a relatively large part of the City of Philadelphia?

23 A. Sure.

24 Q. We're stretching here from West Philadelphia all the
25 way over to Spring Garden, Callowhill, and you narrowed this

1 window down by time to a 2-hour window, correct?

2 A. Yes, between 6:00 p.m. and 8:00 p.m.

3 Q. And these towers here, the towers are represented by
4 the angles, and these dots, the colored dots, are all the
5 different points at which there was contact, correct?

6 A. Usage of the cell phone by the tower, yeah.

7 MR. HUGHES: Can we go to 47?

8 BY MR. HUGHES:

9 Q. Now, in this particular slide, you have a value
10 within the -- a value within all these lines and dots.

11 THE COURT: What do you mean "a value"?

12 BY MR. HUGHES:

13 Q. A number, is that the total number of calls made at
14 that location?

15 A. Off of that particular cell site.

16 Q. Off of that site?

17 A. Yeah. So, for example, you see the number 27 up
18 here, that's just a reference number representing this cell
19 site here, 27, and then we can see at that time (702)305-6012
20 was used off of that cell site and then also (267)586-4737.
21 Because they were of the same cellular provider, so they used
22 the same tower.

23 Q. So that 27 is not indicative of any particular
24 individual here. That's the number, in total, that cell site
25 for that time window, correct?

1 A. No. I want to make sure we're clear. This is just a
2 reference number, 27. That box corresponds with that cell
3 tower right there.

4 Q. And not an individual?

5 A. Not an individual, but what it does correspond to the
6 individual is this right here. These are the cell phone
7 numbers being utilized at the specific times that you see,
8 6:16 p.m., 7:30 p.m., 7:34 p.m., and you see the cell phone
9 that was being used.

10 Q. Exactly. So in total, those numbers, those telephone
11 numbers made 27 calls, collectively, off those towers at that
12 location?

13 A. No. I think they understand because they're all
14 shaking their head.

15 Q. Sorry.

16 A. No. Let's be clear so we can be clear. This is just
17 a reference number.

18 THE COURT: Like one, two, three, four, five?

19 THE WITNESS: Correct. Like referring to that tower
20 right there. It has nothing to do with the number of calls.

21 BY MR. HUGHES:

22 Q. So sorry. So sorry.

23 A. I just wanted to make sure we're clear.

24 Q. Thank you. Going to page 76, and I will be brief,
25 now, that has an address of 3234 North Sydenham Street?

1 A. Yes, sir.

2 Q. And that was a place of interest that was -- or a
3 data point, if you will, that was given to you when you were
4 preparing this slide, correct?

5 A. That's correct.

6 Q. This is on the date of September 11, 2017?

7 A. Yes, sir.

8 Q. So correct me if I'm wrong, but the reason that you
9 are putting all these data points together is you are trying to
10 show a relationship between all these phone numbers and that
11 address on that date, correct?

12 A. Well, I was asked to show where these phones were
13 between 2:30 and 7:30 p.m. What we see is, during that time
14 frame, that all of these phones are utilized in the vicinity of
15 3234 North Sydenham. The relationship, I suppose, could be
16 inferred by who was looking at it. But, you know, that's
17 what's displayed between 2:30 and 7:30 p.m.

18 Q. Well, just to be clear, you're not telling or not
19 purporting to tell the ladies and gentlemen of this jury that
20 Mr. Blanding's phone was at 3234 North Sydenham during that
21 time frame. You're not telling us that are you?

22 A. No. But what I'm telling you is that, during this
23 certain time frame, Mr. Blanding's cell phone utilized that
24 cell site and that cell site, which provides overlapping
25 coverage in the vicinity of 3234 North Sydenham. So the phone,

1 at some point between 2:30 and 7:30 p.m., was very close to
2 that address.

3 Q. So by saying very close, are you trying to tell us
4 that it's possible that Mr. Blanding was at that address?

5 A. It certainly is possible, sure.

6 Q. You are aware that there was a pole camera outside of
7 3234 North Sydenham Street, right?

8 A. I'm actually not really aware. I know there was a
9 pole camera. I wasn't involved in the investigation.

10 Q. Agent Simpson can tell you to an absolute certainty
11 that Mr. Blanding never went to that address on that date
12 because they have a video recording.

13 THE COURT: No, no, no. Next question.

14 BY MR. HUGHES:

15 Q. Are you aware?

16 THE COURT: No. That's not a proper cross.

17 THE WITNESS: Once again, sir, I didn't say he was
18 there.

19 THE COURT: No, no. Don't answer the question.

20 MR. HUGHES: No further questions, Your Honor.

21 THE COURT: Anybody else?

22 MR. ORTIZ: Yes, Your Honor.

23 THE COURT: Mr. Ortiz.

24 - - -

25 CROSS-EXAMINATION

- - -

BY MR. ORTIZ:

Q. I apologize in advance at this late juncture in the day. I am actually somewhat familiar with cell site tower information, so I just want to ask you some pointed questions.

And I think you made a good point. You are not the boots on the ground making observations, correct?

A. No, sir.

Q. You're just asked to say was a cell site within -- and you set the parameters. It could be a mile, 3-quarters of a mile, correct?

A. I am just here to analyze the phone records and to show geographically which cell sites the phone utilized and to be able to show geographically where the phones were.

Q. Right. So, for example, you gave us -- you told us, for example, when Mr. Hoover, if we go to -- can you bring up page 11, which I know is not going to be the correct -- you already recognized that. Do you recognize that?

A. Page 11, sir?

Q. Yes.

A. That shows Mr. Hoover's travel from Philadelphia to Los Angeles from November 2 through the 6th.

Q. So from November 2 to the 6th, that's a full four days of data that you're looking at, correct?

A. It's actually five days.

1 Q. Five days and you're able to see on different days
2 where his phone hits in what state, correct?

3 A. Yes. Because it's such a macro view, you don't see
4 this sort of the wedge of the cell site sector. I just sort of
5 show the tower usage as it goes across the country.

6 Q. And so, for example, you were asked to give those
7 dates in terms of Mr. Hoover as to when he left, it looks like,
8 the Philadelphia area and then arrived somewhere in the Los
9 Angeles area, correct?

10 A. Yes.

11 Q. Now, you have not provided us any data for the
12 seventh, the eighth, and the ninth, correct?

13 A. I actually think, if we go forward, I think there is
14 some, because this shows the 2nd to the 6th, which was his
15 travel to Los Angeles, and then there's the common call
16 locations in Los Angeles.

17 Q. Well, the common call location I have is November 14.

18 A. Okay. I'm not sure.

19 Q. Can you show, I guess it's page 13.

20 A. There you go.

21 Q. That's the common call location?

22 A. That's correct, sir.

23 Q. You were given, say, a hotel, correct? That was
24 given to you by, I guess, a case agent or someone to put on the
25 map, correct?

1 A. Yes. Actually, I had done this analysis and went
2 back to them and asked there had to be a location where they
3 were because they're all in the same area. I actually didn't
4 know it when I initially did the analysis.

5 Q. But, for example, it's a hotel that they're asking
6 you to look at, correct?

7 A. That's correct. And we see that the 3515 Wilshire
8 Boulevard is within the coverage area of pretty much every cell
9 phone that was used.

10 Q. This doesn't tell you if these three people had
11 breakfast or lunch or dinner or what time or anything like
12 that, correct?

13 A. No, absolutely not. It just shows the cellular usage
14 of the phones, all of which had come from Philadelphia and are
15 now 3,000 miles away.

16 Q. Absolutely. I don't challenge that. I'm just saying
17 this doesn't tell you what was going on.

18 A. Absolutely not.

19 Q. I notice even from this, even though they're in the
20 same area, correct, Mr. Hoover, I guess, is the dark phone,
21 correct?

22 A. That's correct.

23 Q. He at one point is up where 13 is up on the upper up
24 by Oakwood?

25 A. Yes. There was some usage up on this cell site and

1 that cell site as well, but then down here.

2 Q. I like this. Also at one point Mr. Hoover is hitting
3 off a tower in Little Bangladesh? Little Bangladesh?

4 A. Oh, yes.

5 Q. Yeah. But I don't see Mr. Hickson or, quite frankly,
6 Mr. Blanding ever hitting off either thirteen or four, those
7 towers, correct?

8 A. No.

9 Q. Now, I'm going to go back again, since we've now seen
10 the next date in terms of Mr. Hoover. So Mr. Hoover you have,
11 from the 2nd to the 6th, five days he's moving across the
12 country, it looks like, from Philadelphia to Los Angeles,
13 correct?

14 A. Yes.

15 Q. Where was he on the seventh?

16 A. I'm not sure. I don't have that displayed here.

17 Q. Well, was he in Mexico? Was he in Nevada? Where was
18 he on the eighth?

19 THE COURT: Well, he only knows where the cell phone
20 is.

21 BY MR. ORTIZ:

22 Q. All right. Well, so --

23 THE COURT: Isn't that right?

24 THE WITNESS: That's correct, sir.

25 BY MR. ORTIZ:

1 Q. But you haven't provided any data to the jury as to
2 where Mr. Hoover was between the 6th and the 14th, correct?

3 A. Yes. So it was very simple. I was asked to show a
4 travel out and then any common call location when any of those
5 three individuals were close to each other between that certain
6 time frame.

7 Q. So you weren't asked for that date, correct?

8 A. Correct. I mean, there was nothing there to analyze
9 within the request.

10 Q. Okay. Well, you haven't provided that data. It
11 wasn't requested of you for those dates?

12 A. I'm sorry, sir. When you say --

13 Q. Were you asked to provide where Mr. Hoover was on
14 that date, on the 7th, 8th, 9th?

15 A. No, I don't believe so.

16 Q. That's the question. Because now I want to turn to
17 Mr. Blanding. That's going to be page 10. Do you see that?

18 A. Yes, sir.

19 Q. So Mr. Blanding, for whatever reasons, you don't know
20 why, you don't know what he's doing, you don't know what's
21 going on in his life, he leaves Philadelphia on the 14th,
22 correct?

23 A. That's correct.

24 Q. Then he stops, it looks like, in Minneapolis,
25 correct?

1 A. Yes.

2 Q. And then he gets to Los Angeles, I guess, on that
3 same day, correct?

4 A. That's correct.

5 Q. Then you have the times that you got data, it looks
6 like, on the 14th?

7 A. That's correct.

8 Q. And that's how you're able to tell he's in Los
9 Angeles, correct?

10 A. Yes.

11 Q. Mr. Hickson, let's turn to him. That's going to be
12 page 12. Do you see that? So Mr. Blanding has left on the
13 14th, but Mr. Hickson is traveling now on the 12th, and it
14 looks like it's just a straight shot across to Los Angeles,
15 correct?

16 A. Yes. I mean, we don't see any other usage. It was
17 just usage in Philadelphia and usage in LA. If there was a
18 stop in between, he didn't use his cell phone.

19 Q. Again, we know that Mr. Hoover's already been in Los
20 Angeles for that period, that 5-day period earlier in the
21 month. That's the --

22 A. Yeah. He arrived on the 6th.

23 Q. The 6th. Right. So then when you look for the
24 common, you know, where is a moment where perhaps people are
25 meeting or an area, that's what we're looking at on the 14th,

1 correct?

2 A. Yes. I didn't look until the 14th because I knew
3 everybody wasn't there until the 14th.

4 Q. Hickson was there since the 12th, correct? And
5 Mr. Blanding arrived on the 14th, correct?

6 A. Yes.

7 Q. So we don't have any data as to what occurred, for
8 example, on the 12th, correct? You weren't asked to look at
9 that?

10 A. No. Again, just so we're on the same page, I looked
11 at when each individual traveled. I knew that Mr. Hickson
12 arrived on the 12th, Mr. Blanding on the 14th, and then
13 Mr. Hoover on the 6th. I waited until the 14th, checked the
14 entire day of the 14th up until the last day they departed,
15 looking for any common call locations.

16 Q. But you would grow with me that on the 12th
17 Mr. Hickson and Mr. Hoover were in the area of Los Angeles, at
18 least in the greater area of Los Angeles, correct?

19 A. That's true. I was waiting until all three were
20 there.

21 Q. So you were asked to wait for that?

22 A. You know, I mean, so much work goes into this. I
23 couldn't tell you what I was asked to do. I just know that --

24 Q. That's what you're providing us now?

25 A. Yes. I provided just when the three of them were

1 together.

2 Q. I feel like you're trying to participate and not
3 participate. You were asked to provide data for given dates,
4 correct?

5 A. You keep saying data, and data to me is different.

6 Q. Cell site locations.

7 A. Data is the cell phone records, which we all have,
8 you have, all the defense has, the prosecution has. That's not
9 data. This is just a visual depiction of the data.

10 Q. I want to -- I understand that. I'm pointing out
11 what we have, what we are going to have to analyze sometime
12 very soon, and I'm just walking you through that initial trip
13 to Los Angeles, correct? You understand that I'm just pointing
14 out the dates you provided us data on, correct?

15 A. Sure.

16 Q. I'm going to address that same data and the same
17 issue. So if you turn to page 17, that is cell site
18 information for a 3-day period, correct?

19 A. Yes.

20 Q. So, for example, I'm here, my daughter's at Central,
21 my wife's at, you know, whatever, you know, somewhere at a firm
22 on Broad Street or whatever. Over three days, you know, we
23 could be in this vicinity, right? You know, according to your
24 data, correct?

25 A. I agree. Sure.

1 Q. So I guess that's my point. You're analyzing three
2 days where you're saying these people were in this -- in Center
3 City essentially, correct?

4 A. Yes. So my understanding was that Mr. Hoover had
5 brought some product back and at some point --

6 Q. Again, I object. I actually don't know if there's
7 any evidence of that. I don't know if there's any product. I
8 don't think any was seized. So, again, you're interjecting
9 yourself.

10 I'm asking, this is three days of data, correct?

11 A. Again, I was asked if any time, after Mr. Hoover
12 returned, did any of these individuals show up in the vicinity
13 of 1 Brown Street? And so I would agree with you. Is it a two
14 or three day period? Yes, it is. I'm just showing --

15 Q. Again, I can tell you there was no product seized,
16 so, again, I'm asking what your job is as an expert.

17 A. Yes.

18 Q. This is just the cell site data for three days in
19 what looks like the Center City area, correct?

20 A. Right. But not just of anybody, of the --

21 Q. Of the phones you were given. So, again, I gave you
22 the example. I could be here, my wife could be wherever on
23 Broad, I'm just giving random places, someone could be a mile
24 or 3-quarters of a mile from here, and, you know, it would
25 appear over that 3-day period that all these phones you were

1 asked to at were in this area of the city, correct?

2 A. That's correct.

3 Q. But, for example, Mr. Hoover is, I guess, the dark
4 one?

5 A. Yes.

6 Q. So on 11/21 he's shown way up in the corner, correct,
7 at 113?

8 A. That's correct.

9 Q. And then Mr. Hoover, again, on 11/20 is down at what
10 looks like 45, correct?

11 A. Mr. Hoover is in black.

12 Q. Yeah, black.

13 A. So he would have been these cell sites here.

14 Q. And no one's actually talked about this when you have
15 those lines, that's actually meant to -- it depicts what? How
16 far even from the tower they could be at that time? What does
17 it depict?

18 A. No. Actually, if you were listening when I had
19 testified on direct, I explained that this just shows the
20 directionality of the cell site, and the arc just represents
21 the angle, not the length of the frequency.

22 Q. I guess it's a matter of semantics. What I'm saying
23 is they could be anywhere from 3-quarters of a mile from the
24 tower based on what you --

25 A. I mean, in this area here, what you have, you see a

1 lot of different dots, but what you have to understand is these
2 are different cell phone towers. There are --

3 Q. Let me see if I can help. You can't say anywhere
4 along that vector where exactly Mr. Hoover was, correct? Just
5 that he hit off that tower. Like, he's not right in the center
6 there. You can't say whether he's there or he's somewhere
7 further away from there?

8 A. So what we see is -- Mr. Hoover's phone, just so I'm
9 clear, is the 702 number, correct?

10 Q. Yes, right there.

11 A. So we have his phone being utilized on the 20th at
12 2:33 and 2:34 p.m. here pointing south. We have it being used
13 at 2:56 p.m. pointing this direction. So what I can tell you
14 is between 2:34 and 2:56 he's right in the middle of the two
15 because he passed through that area, and 1 Brown Street is in
16 that area.

17 Q. So he's within anything within that area?

18 A. Oh, absolutely. I can't say down to the street
19 corner where he is. I'm just saying in that area that I have
20 circled right there, that's where he had passed through during
21 that time. He was in that general vicinity.

22 Q. So you're not actually making any physical
23 observations of any of these people being together?

24 THE COURT: Mr. Ortiz, he's already testified to
25 that.

1 MR. ORTIZ: I'm going to move on to end this with a
2 final question.

3 BY MR. ORTIZ:

4 Q. Were you asked -- Mr. Hoover was arrested on the
5 17th, I believe, of 2018. Are you aware of that?

6 A. Actually, sir, no. I'm not aware of when anybody was
7 arrested.

8 Q. Are you able to tell us where Mr. Hoover was on the
9 18th from any of these exhibits, or did you not prepare one?

10 A. I don't believe -- well, you had prior knowledge of
11 the report. Is it in there?

12 Q. I didn't see one and I was told there wasn't one
13 prepared.

14 A. I believe I did not do any arrests, no.

15 Q. So you can't tell me where, for example, Mr. West was
16 on the 18th?

17 A. No, sir.

18 Q. Or anybody else because you weren't asked to look for
19 that date?

20 A. No. I guess it wasn't important to them.

21 MR. ORTIZ: I have no further questions.

22 THE COURT: Any other cross-examination.

23 MR. GOLDMAN: I'll just be brief, Your Honor. I can
24 even do it from here, if you want, just briefly.

25 THE COURT: Go ahead.

SPECIAL AGENT SIMPSON - CROSS

1 - - -

2 CROSS-EXAMINATION

3 - - -

4 BY MR. GOLDMAN:

5 Q. It wouldn't be out of the ordinary in these days that
6 a person's phone is going to ping off of towers in and about
7 where they live, correct?

8 A. Oh, absolutely.

9 Q. Or where they visit their family, correct?

10 A. Absolutely.

11 Q. Or where they sell T-shirts, correct, or have a
12 business?

13 A. Yes. Anywhere that your phone would be, if you
14 utilize that phone, you would probably see a cell site very
15 close to that location.

16 Q. Right. So that's good enough. I said I'd be quick.

17 THE COURT: Anybody else?

18 MR. MEEHAN: I do, Judge.

19 THE COURT: Go ahead.

20 - - -

21 CROSS-EXAMINATION

22 - - -

23 BY MR. MEEHAN:

24 Q. How you doing?

25 A. Good. How are you, sir?

1 Q. I'm well.

2 MR. MEEHAN: Can we look at, I think it's 76. That's
3 great. Thank you.

4 BY MR. MEEHAN:

5 Q. So good afternoon, Mr. Shute.

6 A. Yes.

7 Q. I want to make sure that I'm interpreting this
8 correctly. Mr. West's phone appears to be the phone calls in
9 the -- with the sort of blue heading?

10 A. Yes, sir.

11 Q. There's probably a better color description for that,
12 but we'll just go with blue. And it appears that while he was
13 in the area, at least, of 3234 North Sydenham on the 11th, am I
14 correct in analyzing this that the evidence, at least the phone
15 calls, indicate that he was there sometime between 6:02 and
16 then 7:13 p.m.? It looks like there's two --

17 A. Yep, 6:02.

18 Q. Would be the first call, at least from what I see?

19 A. Yes.

20 Q. And it looks like on another, I guess another tower,
21 the last call was at 7:13. Does that appear to be accurate?

22 A. No, because I think his phone is 215-554. That's a
23 different phone number. That's Mr. Blanding's phone.

24 Q. Okay. So he was only there from 6:02 to 6:52?

25 A. I can tell you, if we went to the slide on the

1 PowerPoint, it would be easier to see, only because this is the
2 final slide when you print it. When it's animated, it kind of
3 goes person by person. But from what I can see, it looks like
4 6:02 to 6:52, and then on this map I believe that's all I see.

5 Q. Okay. All right. Thank you. Next, if we could go
6 to, well, it's for October 13 through the 14th, and I'm
7 guessing it's 63; is that accurate?

8 A. I think it's after. I think it's 80 something.

9 Q. Is it possibly 83?

10 A. It's in the 80s, I believe.

11 Q. Thank you. I appreciate that. Okay. Help me with
12 this one. First off, you never received a phone from somebody
13 named Robbie Johnson, correct?

14 A. No, sir.

15 Q. So on this one, the blue is Mr. West and the yellow
16 is Mr. Stewart, correct?

17 A. Yes.

18 Q. Okay. Now, what I think you indicated when you were
19 testifying on direct was that at 7:14 there is a call by
20 Mr. Stewart, and then there's another call at 7:36 about 22
21 minutes later. And it appears that he's moving in a west
22 direction; is that correct?

23 A. Yes, because at 7:14 the phone is utilizing this cell
24 site. At 7:36, then further down Roosevelt Boulevard.

25 Q. Okay. However, there's no indication that it goes

1 any further west, at least according to the cell phone
2 evidence; is that fair to say?

3 A. The last call that we had during that time frame was
4 at 7:36 p.m.

5 Q. Okay. And then the blue, which appears to be, based
6 on the key that you have here, which is several thousand feet
7 away, it appears the phone that's being used by Mr. West; is
8 that right?

9 A. Yes.

10 Q. Okay. And Mr. West, who is on his phone a lot,
11 appears to be in that general area. Now, again, 7:36 was the
12 last call that we have from Mr. Stewart, and at about 7:32 it
13 appears that Mr. West is somewhere in the area of Ogontz and
14 Fern Rock. Is that accurate?

15 A. Yes. Well, both of these cell sites provide coverage
16 in this area, so probably in this general area here.

17 Q. Okay. So Mr. Dontez Stewart is on the east side of
18 Tookany Creek Park at 7:36, and at 7:32 to 7:40, Mr. West is
19 over by the Logan-Ogontz-Fern Rock indication there on the map;
20 is that right?

21 A. Yeah. So we have probably Mr. Stewart would have
22 been, like, sort of in this area here 7:36.

23 Q. That's the red circle that you just put?

24 A. That's correct. And then at 7:44, 7:40, Mr. West
25 would have probably been in this area here. Just so you know,

1 these little dots that you see along Broad Street, I don't want
2 that to throw you off if you see these thinking they are other
3 cell sites. Those cell sites are actually -- this is AT&T.
4 Those cell sites are actually in the Broad Street Line
5 underground.

6 Q. So they couldn't be utilized?

7 A. They couldn't be utilized. This would be the area
8 where that phone would have been at during that time frame as
9 far out to about Roosevelt Boulevard into where those cell
10 sites sit.

11 Q. Great. Thank you, Mr. Shute.

12 A. You're welcome.

13 THE COURT: Okay. Any redirect? I'd like to be able
14 to excuse this witness.

15 MR. WITHERELL: Please, Your Honor.

16 THE COURT: Ladies and gentlemen of the jury, it's
17 about time to adjourn. The witness is completed. I am told
18 that tomorrow morning the Government will call their last
19 witness. He will be here at 9:00 and will testify, and that
20 will be the Government's last witness. So I don't know, as I
21 sit here today, exactly what else will happen tomorrow, but
22 you'll be among the first to know when it happens.

23 Okay. So keep an open mind. Remember, I don't
24 expect anything to be in the media or the newspaper about this
25 case, but if by any chance there is, please ignore it.

1 Obviously, nobody's advised me or Ms. Lutz that anybody's tried
2 to talk to you about the case, which is the way it should be.
3 If that changes, you should let us know too.

4 Everyone remain seated while the jury leaves the
5 room. Appreciate you being here at 9:00 a.m. tomorrow so we
6 can start on time. We can't start unless everybody's here.
7 Thank you.

8 (The jury exits the courtroom at 4:25 p.m.)

9 THE COURT: All right. The witness is excused.
10 Thank you very much.

11 (Witness excused.)

12 THE COURT: Okay. I would like to have -- I have a
13 phone call at 4:45, in another case, obviously. It won't take
14 very long, but I have to excuse myself. So the first thing I
15 would like the Government is to make a very short offer of
16 proof as to what Agent Updegraf, your last witness, will
17 testify to. Then I'm going to ask defense counsel, as I said
18 earlier, to make your motions for directed verdict based on the
19 testimony that you've heard, that we've all heard, and anything
20 you want to say about Agent Updegraf as to whether I should
21 grant a directed verdict.

22 Now, my practice on directed verdicts is that counsel
23 should state all of the grounds that you have, but I'm not
24 interested in hearing any argument, because my usual ruling is
25 to defer decision on it until after the jury verdict comes in.

1 Now, the next thing is that I have drastically
2 shortened the verdict form that the Government proposed, which
3 I think was unnecessarily complex, and in doing so, I relied on
4 a Third Circuit case, United States versus Phillips. And I'm
5 going to hand out copies of this to you very shortly, and we'll
6 have some discussion about that as well. But I think it's
7 appropriate in the law.

8 As far as the points for charge, it is clear from the
9 precedential opinions of the Third Circuit that even though the
10 indictment reads in the conjunctive, the jury is appropriately
11 instructed in the disjunctive with the use of the word "or,"
12 O-R, closed quote. The Government has submitted a specific
13 point for charge on that point.

14 Okay. Who would like to give the offer of proof as
15 to Agent Updegraf? Mr. Stengel?

16 MR. STENGEL: Sure. Special Agent Updegraf will
17 address briefly the locations from which narcotics are imported
18 and how Southern California acts as a source state, discuss
19 briefly the ways in which narcotics are imported from those
20 source states to this area, the structured organization of a
21 drug trafficking organization, the ways in which drug
22 traffickers conceal their activities, ways in which drug
23 traffickers protect their business.

24 He will testify as to the drugs seized in this case,
25 particularly as it pertains to Counts 6 and 12, and the

1 circumstances surrounding those seizures, and the seizures of
2 those narcotics and those narcotics and those amounts and those
3 circumstances are consistent with distribution and not personal
4 use.

5 He will also testify as to the use of certain
6 paraphernalia that has been seized in this case as well as the
7 certain coded language which has come out throughout trial.
8 And in particular, in the text messages that Special Agent
9 Becker put together in Government Exhibit 3002, he's added --
10 as Your Honor's aware, Special Agent Updegraf, in coordination
11 with Special Agent Becker, put together 3004, which is 3002,
12 with an overlay of Special Agent Updegraf's conclusions. We're
13 not going to go through every single one of those, but it would
14 be important for us to go through a number of them to establish
15 how he came to some of those conclusions.

16 THE COURT: All right. Thank you.

17 Okay. Now, directed verdict, Mr. Meehan.

18 MR. MEEHAN: Count 12, I would be moving for a
19 directed verdict on Mr. West as it pertains to all the drugs
20 that are recovered that day.

21 You don't want any argument, correct, Judge?

22 THE COURT: Right.

23 MR. MEEHAN: Count 6 as it pertains to the drugs that
24 are recovered that day at the Sydenham address, and that would
25 be it for directed verdict, sir.

1 THE COURT: Okay. Mr. Hughes.

2 MR. HUGHES: Count 11, Your Honor.

3 THE COURT: That's all?

4 MR. HUGHES: Yes, December 13, 2017. This is conduct
5 regarding Eric Brooks-Blanding.

6 THE COURT: Mr. Ortiz.

7 MR. ORTIZ: I want to make sure I'm addressing the
8 right indictment.

9 THE COURT: Pull the microphone closer.

10 MR. ORTIZ: On one, six, and I believe I'm in 12, and
11 12.

12 THE COURT: Do you want to state the grounds?

13 MR. ORTIZ: Sufficiency and lack of conspiracy.

14 THE COURT: Okay. Mr. Goldman.

15 MR. GOLDMAN: I believe we're on two counts, one and
16 six. The rationale, first of all, I'll go along with what
17 Mr. Ortiz says, and the Count 6 deals with Sydenham, all those
18 drugs. There's no evidence presented that these are the drugs
19 of my client.

20 THE COURT: All right. Thank you. I will hold those
21 under advisement.

22 MR. HUGHES: Your Honor, I'm sorry. I do need to
23 move on Count 1 as well. Sorry, Your Honor.

24 THE COURT: Count one also?

25 MR. HUGHES: Yes.

1 THE COURT: Thank you.

2 MR. WITHERELL: Your Honor, just to be clear, the
3 Government would move to dismiss Count 11.

4 THE COURT: What?

5 MR. WITHERELL: We move to dismiss Count 11 as to
6 Mr. Blanding.

7 THE COURT: As to Mr. Blanding?

8 MR. WITHERELL: That testimony, I believe
9 Mr. Brooks-Blanding would have been necessary.

10 THE COURT: All right. Count 11 is dismissed as to
11 Jamaal Blanding. Well, in the verdict form I'm going to hand
12 out, it will be on page 14.

13 Okay. Now, what I would like to know, if defense
14 counsel want to tell me, if you plan to present testimony, how
15 long do you think it will take? If you want to say who your
16 witnesses are, you can, but you don't have to. If you don't
17 want to tell me anything, I will not take it personally or
18 judicially or any other way.

19 I know, Mr. Hughes, you have an expert, correct?

20 MR. HUGHES: Yes, I do, Your Honor.

21 THE COURT: Okay. Mr. Meehan, anything you want to
22 offer?

23 MR. MEEHAN: No, sir.

24 THE COURT: Mr. Ortiz.

25 MR. ORTIZ: I have an expert who is more focused on

1 my particular charges, and I also may briefly call one of the
2 case agents to discuss an exhibit that was introduced or call
3 somebody. I'll work it out.

4 THE COURT: Mr. Meehan, are you not telling me or are
5 you not going to call anybody?

6 MR. MEEHAN: I'm not going to call anybody. I would
7 tell you, though.

8 THE COURT: Mr. Goldman.

9 MR. GOLDMAN: I'm not calling anyone, Your Honor.

10 THE COURT: So it sounds like, with Mr. Updegraf and
11 the two experts, that we're looking at about two hours of
12 testimony, give or take.

13 So, government, how long do you want for your
14 opening?

15 MR. WITHERELL: My closing, Your Honor?

16 THE COURT: Your closing, I mean.

17 MR. WITHERELL: I don't think I'd go more than an
18 hour. I'd probably be a little bit less.

19 THE COURT: Do you want to reserve time for rebuttal
20 or do you want additional time for rebuttal?

21 MR. WITHERELL: I think I could do an hour and I
22 could do both.

23 THE COURT: An hour for both?

24 MR. WITHERELL: Yes.

25 THE COURT: I'll leave it up to you how to allocate

1 it. We're going to bring lunch in for the jurors again.

2 Now, how long would defense counsel like? I
3 suggested somewhere between 30 and 40 minutes is reasonable.

4 Mr. Meehan.

5 MR. MEEHAN: Twenty minutes.

6 THE COURT: Twenty?

7 MR. MEEHAN: Yes.

8 THE COURT: Mr. Hughes.

9 MR. HUGHES: Your Honor, I think 35 minutes.

10 THE COURT: All right. I'll put down 40.

11 MR. HUGHES: Thank you, Your Honor.

12 THE COURT: Mr. Ortiz.

13 MR. ORTIZ: I'll take the 40. It will probably be
14 much less.

15 MR. GOLDMAN: I'm slow to get started. I'll say 45.

16 THE COURT: How about 40? I think that's enough.

17 MR. GOLDMAN: All right.

18 THE COURT: That adds up to 140, which is two and a
19 half hours. Okay. I think it is probably not a good idea for
20 me to charge tomorrow and I ought to charge Monday morning.

21 Do you have any views on that, Mr. Meehan?

22 MR. MEEHAN: I agree with you.

23 MR. ORTIZ: I absolutely agree.

24 THE COURT: So we get all the arguments in, but I
25 think we can do it with a short lunch break, can we not?

1 Now, I'm going to hand out these verdict forms. I'll
2 give you two choices. I can come back after my phone call, if
3 you want to wait, or I can ask you to come in early tomorrow
4 morning and I can discuss it with you tomorrow morning. This
5 is not cast in stone, but the Phillips case is relied on in the
6 Third Circuit model jury instructions. The citation, if anyone
7 wants to look at it, is 349 F.3d 138.

8 And the basic rule is that, in a multi-defendant case
9 with drug quantities, it's recommended that the jury be asked,
10 first, how do you find as to each defendant? And then, as to
11 those defendants who are found guilty, the jury then makes
12 findings whether the Government's proven beyond a reasonable
13 doubt to the jury unanimously that certain quantities have been
14 established. And I think it is a much more direct and simple
15 way than the Government had proposed.

16 Secondly, I just want to note that for Count 4 in the
17 superseding indictment, that Count 4 not state a quantity, but
18 the Government did not ask for a quantity finding. But in
19 Count 5, which does state a quantity in the indictment, the
20 Government did not ask for -- the Government did ask for a
21 quantity finding. And I'm not sure you need to do that since
22 the quantity is in the indictment, but maybe if you want to, I
23 will do it.

24 Now, next is I don't understand why the Government
25 wants a jury verdict about prior convictions. I don't think

1 that's necessary. Appendi clearly said that prior convictions
2 do not have to be proven by the jury. The judge can consider
3 them at sentencing.

4 MR. WITHERELL: No, Your Honor. The First Step Act,
5 we believe, has changed a few things.

6 You're talking about the 851 enhancements?

7 THE COURT: Yeah.

8 MR. WITHERELL: I believe the First Step Act has
9 changed a few things. It has made it a part -- not only do we
10 have to charge it in the indictment, but I do believe it's
11 something that needs to be addressed by the jury. I will let
12 the Court know that we have entered into stipulations with both
13 defense attorneys that are charged with 851, and they have
14 stipulated as to that prior.

15 THE COURT: If that's the case, we don't need a jury
16 verdict about it.

17 MR. WITHERELL: I still think it should be
18 bifurcated.

19 MR. ORTIZ: Then it becomes moot.

20 THE COURT: I'll look into that.

21 MR. WITHERELL: I appreciate that, Judge.

22 As to the jury verdict form, I know you have a call
23 and we're willing to stay, I think it was correct to charge it
24 as "or" in the possession charge, but we still see in Count 1
25 it says "and," I think that's incorrect. I think it should

1 read "or" as well, in accordance with the law and your jury
2 instruction.

3 THE COURT: All right. I'll look at all of this. Do
4 defense counsel want to wait, or do you want to come in a
5 little early tomorrow morning?

6 MR. ORTIZ: Tomorrow morning I prefer.

7 THE COURT: Please be here at 8:45.

8 MR. GOLDMAN: Your Honor, in light of what I see
9 here, I think there's another argument pertaining to the motion
10 for directed verdict.

11 THE COURT: What is it? What count?

12 MR. GOLDMAN: Well, for example, the conspiracy
13 alleges heroin and you asked the jury whether or not it's
14 reasonably foreseeable. There's no evidence whatsoever, I
15 know, of my client ever being involved in heroin.

16 THE COURT: You can add that to your directed verdict
17 motion.

18 MR. GOLDMAN: Thank you.

19 THE COURT: Thank you. See you tomorrow morning at
20 8:45. Court's adjourned. Thank you. I am open to suggestions
21 about this. It's not cast in stone, but I really think this is
22 a better way to do it.

23 One last thing, Counsel. I will have a charge
24 conference before arguments as the rules require, but I can
25 tell you that I'm going to adopt the Government's points. I

1 think they are fair. I think they're well-stated they're
2 completely consistent with the Third Circuit model jury
3 instructions. But you're welcome to make any exceptions or
4 points and things like that. Okay. Have a nice night.

5 (Proceedings adjourned at 4:42 p.m.)

6
7 CERTIFICATE

8
9 I certify that the foregoing is a correct transcript from the
10 record of proceedings in the above-entitled matter.

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14 Shannan Gagliardi, RDR, CRR
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<p>MR. GOLDMAN: [33] 4/13 4/17 37/21 41/1 43/11 43/18 44/10 46/18 47/19 48/21 56/24 57/7 60/15 62/24 74/20 76/18 77/10 82/24 83/5 84/18 84/20 86/13 107/17 124/13 134/4 193/23 202/15 204/9 205/15 205/17 208/8 208/12 208/18 MR. HUGHES: [70] 7/6 9/7 9/10 9/12 11/5 12/9 12/21 13/6 13/23 14/1 14/15 15/7 15/21 17/5 18/15 19/8 20/3 22/21 22/23 23/6 24/14 68/9 68/11 68/21 71/1 73/6 73/8 73/12 74/24 75/5 75/9 75/20 76/1 77/14 77/18 77/21 84/4 85/2 85/5 86/18 86/21 86/25 87/5 88/18 89/1 89/4 92/5 92/11 92/18 95/14 108/18 113/22 114/16 114/24 119/7 120/1 120/7 122/19 123/9 124/5 124/9 178/7 181/20 202/2 202/4 202/22 202/25 203/20 205/9 205/11 MR. MEEHAN: [21] 7/4 48/24 52/20 53/25 54/14 55/1 55/9 56/11 62/22 92/14 117/14 143/11 194/18 195/2 201/18 201/23 203/23 204/6 205/5 205/7 205/22 MR. ORTIZ: [22] 30/8 32/2 32/7 38/15 39/7 85/13 85/21 92/15 134/6 136/2 143/12 181/22 193/1 193/21 202/7 202/10 202/13 203/25 205/13 205/23 207/19 208/6 MR. 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